



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/148380

PRELIMINARY RECITALS

Pursuant to a petition filed March 31, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a hearing was held on May 06, 2013, at Wisconsin Rapids, Wisconsin.

The issue for determination is whether the Department erred in reducing petitioner's FoodShare allotment from \$200 to \$16 per month.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Kathleen Halmstad

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County.

2. Petitioner received FS benefits in the amount of \$200.00 from at least May, 2012, through March, 2013. At the time of approval of said benefits, the Department was not counting any earned or unearned income for petitioner.
3. Subsequently, the Department of Workforce Development reported to the Department that petitioner was receiving \$950.30 per month in unemployment compensation.
4. The Department recalculated petitioner's allotment based on this new information and notified him by March 11, 2013 notice that his allotment would be reduced from \$200 to \$16 effective April 1, 2013.
5. The Division of Hearings and Appeals received a timely request for hearing on March 31, 2013.

DISCUSSION

At the time of the hearing in this matter, petitioner did not dispute that he indeed receives the unearned income attributed to him. Petitioner did not dispute any of the calculations by the Department about his case. He explained that he was merely seeking a reconsideration of his case. He explained that he lives frugally and still has difficulty affording necessities and addressing his existing debts.

The Department explained that the calculation of FoodShare allotment is a mathematical one. I have reviewed the budget screen provided by the respondent, and found no error. Respondent testified that the FS program does not take into account issues such as petitioner's debts when determining benefit amounts.

The petitioner essentially argues that the program standard is unfair and that the administrative law judge should grant him relief from the program requirements. It is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable (fairness) powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, he is not eligible for FS benefits greater than \$16.00; no exception applies; and I am without any equitable powers to direct any remedy beyond the remedies available under law.

CONCLUSIONS OF LAW

The Department did not err in reducing petitioner's FoodShare based on his unearned income.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 29th day of May, 2013

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 29, 2013.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability