



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/148442

PRELIMINARY RECITALS

Pursuant to a petition filed April 02, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on April 25, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined petitioner's FS effective February 1, 2013 through April 30, 2013.

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: Nikitia Howse
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. In February 2013 petitioner was issued \$931 in FS.
3. In March 2013 petitioner was issued \$931 in FS.

4. On March 8, 2013 the agency received an alert from Unemployment Compensation (UC) that petitioner was receiving UC on an average of \$164 weekly.
5. On March 11, 2013 the agency issued a notice of decision to petitioner stating that effective April 1, 2013 her FS would decrease to \$680 because she was getting more income, e.g., the UC. See Exhibit 1.
6. On April 1, 2013 petitioner contacted the agency to report that she stopped working in February 2013.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. §273.9(b). From the gross household income, the following permissible deductions as discussed in the *FoodShare Handbook*, §4.6.1 are allowed: a standard deduction, an earned income deduction, a medical expenses deduction, a child support payment deduction, a dependent care expense deduction, and a shelter expense deduction. Some FS groups are not allowed a deduction for some expenses and some expenses are not always deducted in full. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

The question in this case is whether petitioner reported the decrease in her earned income to affect her February and March FS. According to FS policy, any changes that cause an increase in the FS benefit including decreases in income, person additions, increases in expenses, etc., will be effective the first of the month following the report month. *FS Handbook*, §6.1.3.3; 7 CFR 273.12(c)(1). Thus if she reported the change in April, it should affect her FS for May. There is no evidence of any change report made to the FS agency prior to April 1. In fact, the agency's Case Comments show her contact regarding the ending of the employment occurred on April 1. Exhibit 5 Again, this would affect May's benefits. If petitioner does not receive the FS increase for May, she can file another appeal. The agency presented the budget screens to show how the FS were calculated, petitioner cited no errors, and I can find none. Having no evidence to the contrary, I must find the agency acted correctly here.

I remind petitioner that if she reports her changes online at <https://access.wisconsin.gov/access/> she would get a tracking number that would support any change reporting with a date. She can also take written notices of changes to the agency where it could be date-stamped as received by the agency to also support any change reporting with a date.

CONCLUSIONS OF LAW

The agency correctly determined petitioner's FS effective February 1, 2013 through April 30, 2013.

THEREFORE, it is

ORDERED

The petition for review herein 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 Milwaukee,
Wisconsin, this 10th day of May, 2013

\sKelly Cochrane
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 10, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability