



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/148549

PRELIMINARY RECITALS

Pursuant to a petition filed April 05, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Crawford County Department of Human Services [“Crawford”] in regard to FoodShare benefits [“FS”], a Hearing was held via telephone on May 22, 2013. At petitioner’s request a Hearing scheduled for May 20, 2103 was rescheduled.

The issue for determination is whether the medical expenses of petitioner’s boyfriend for the months of April 2013 and May 2013 can be deducted from petitioner’s income for purposes of FS.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Roby Fuller, ESS

Crawford County Department of Human Services
225 N Beaumont Rd., Suite 326
Prairie Du Chien, WI 53821

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Crawford County.
2. Petitioner’s boyfriend is part of petitioner’s FS household.

3. Petitioner's boyfriend had medical expenses for the months of April 2013 and May 2013.
4. Petitioner's boyfriend was not elderly, blind, or disabled during the months of April 2013 and May 2013 (although he was determined to be disabled with an onset date of June 2013).

DISCUSSION

The amount of a person's monthly FS allotment depends, in part, on the person's income: in general, the higher the income the lower the allotment. 7 C.F.R. § 273.10 (2011); *FoodShare Wisconsin Handbook* ["FWH"] 4.3.1 & 7.1.1. When calculating an FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2011); FWH" 4.3.2. For purposes of FS *income* includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2011); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction, dependant care deduction; child support deduction; homeless shelter deduction; excess shelter deduction¹; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2011); FWH 4.6.1.

The excess medical deduction is only for members of the FS household who are elderly, blind, or disabled. Medical expenses incurred by a member of the FS household who is not elderly, blind, or disabled do not qualify for the excess medical deduction. 7 C.F.R. § 273.9(d)(3)intro. (2011); FWH 4.6.4. Petitioner's boyfriend was not elderly, blind, or disabled during the months of April 2013 and May 2013. Therefore, the medical expenses of petitioner's boyfriend for the months of April 2013 and May 2013 cannot be deducted from petitioner's income for purposes of FS.

Petitioner's argues that she was told by a "representative" that her boyfriend's medical expenses could be deducted. However, this does not change the law as detailed above. The law must be followed.

CONCLUSIONS OF LAW

For the reason discussed above, the medical expenses of petitioner's boyfriend for the months of April 2013 and May 2013 cannot be deducted from petitioner's income for purpose of FS.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

¹ Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2011); FWH 4.6.7.1. When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2011); FWH 4.6.7.2. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2011); FWH 4.6.7.1.

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 24th day of May, 2013

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 24, 2013.

Crawford County Department of Human Services
Division of Health Care Access and Accountability