



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/149082

PRELIMINARY RECITALS

Pursuant to a petition filed April 30, 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 June 04, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits effective May 1, 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: Lee Yang

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On December 14, 2012, the Petitioner submitted an application for FS benefits. On December 19, 2013, the Petitioner was approved to receive benefits of \$200/month. He was also notified of the requirement to report any changes in income within 10 days.

3. On January 10, 2013, the Petitioner started receiving unemployment compensation benefits of \$308/week. A \$55/week child support intercept was taken from his UC benefits.
4. On March 26, 2013, the Petitioner's case was updated to include his UC benefits. On April 1, 2013, the agency issued a Notice of Decision informing the Petitioner that his FS benefits would decrease to \$16/month effective May 1, 2013.
5. On April 30, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$149 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FoodShare Wisconsin Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FoodShare Wisconsin Handbook, App. 4.6.7.

In a fair hearing concerning the sufficiency of FS issued, the burden of proof is on the Department to demonstrate that it correctly computed the petitioner's FS allotments, and the petitioner must then rebut this evidence with his own evidence showing the agency was incorrect.

In this case, there is no dispute that the Petitioner has unearned income of \$1,560.90/month (\$363/week x 4.3 weeks). The Petitioner's housing expenses total \$970.66/month (\$729 mortgage + \$58.33 insurance + \$183.33 taxes). He has a child support intercept of \$55/week or \$235.50/month. These figures are not in dispute. At the hearing, the Petitioner testified that he did not understand that UC benefits are counted in determining FS benefits.

I have reviewed the agency's budget screen and determined that it correctly reduced the Petitioner's FS benefits to \$16/month based on his unearned income and other allowable deductions.

CONCLUSIONS OF LAW

The agency correctly determined the Petitioner's FS benefits as \$16/month effective May 1, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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 28th day of June, 2013

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
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 June 28, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability