



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/149481

PRELIMINARY RECITALS

Pursuant to a petition filed May 20, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Jefferson County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on June 20, 2013. The Hearing for this matter was held at the same time as the Hearing for the following related matter concerning the same petitioner: BCS-149482.

The issue for determination is it was correct to reduce petitioner's FS from \$223.00 per month to \$59.00 per month.

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: Cheryl Streich, ESS

Jefferson County Department of Human Services
Workforce Development Center
874 Collins Rd.
Jefferson, WI 53549

OTHER PERSONS PRESENT:

[REDACTED], petitioner's wife
[REDACTED], petitioner's daughter (2 years old)

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Jefferson County.
2. Petitioner was receiving an FS allotment of \$223.00 per month.
3. Petitioner's wife received a raise at her place of employment (from \$10.00 per hour to \$10.40 per month) and also started to work more hours (from 6.79 hours per bi-weekly paid period to 30.88 hours per bi-weekly pay period); this resulted in an increase in petitioner's household income.
4. Petitioner's monthly FS allotment decreased from \$223.00 per month to \$59.00 per month effective June 1, 2013 due to increased household income.

DISCUSSION

When calculating a monthly FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2011); *Foodshare Wisconsin Handbook* ["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 deduction¹; dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction²; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2011); FWH 4.6.1.

Petitioner does not dispute that under the law, based on his household income and allowable deductions, he is entitled to only \$59.00 per month in FS effective June 1, 2013. However, his wife testified that she started to work more hours because her family needed a new vehicle. She testified that it is frustrating because her family is trying to do the right thing and wonders if she would be better off not working. Her testimony and frustration are most understandable -- but FS allotments must be calculated according to the law as explained above.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to reduce petitioner's FS from \$223.00 per month to \$59.00 per month.

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. Further, the excess medical deduction is only for that portion of medical expenses that is in excess of \$35.00 per month. 7 C.F.R. § 273.9(d)(3)intro. (2011); FWH 4.6.4.

² 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 4.6.7.3. 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.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 26th day of June, 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 June 26, 2013.

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