



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

REHEARING DECISION

FOO/149704

PRELIMINARY RECITALS

Pursuant to a petition filed May 30, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sauk County Department of Human Services in regard to FoodShare benefits (FS), a telephonic rehearing was held on August 26, 2013, at Baraboo, Wisconsin. The petitioner failed to appear for her July 8, 2013 telephonic hearing and her case was dismissed as abandoned. The petitioner requested a rehearing, and that rehearing was granted on July 17, 2013. Prior to the August 26, 2013 rehearing, petitioner submitted two boxes to DHA. Those boxes contained unsanitary sheets and other bloody items from her motel room. The petitioner did not establish any relevance to the items in those boxes to this FS case. During the hearing, it was explained to petitioner that if she was not going to pick up those boxes, they would be discarded by DHA. Petitioner indicated that she was not picking up those boxes, and those boxes have been discarded.

The issue for determination is whether there is sufficient information in the hearing record to make a determination as to whether the county agency correctly calculated the petitioner's FoodShare (FS) benefits as of April 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: Jody Simon, ESS

Sauk County Department of Human Services
505 Broadway, 4th Floor
PO Box 29
Baraboo, WI 53913

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
 Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. Petitioner receives FoodShare (FS) benefits for a household of one.
3. The county agency sent a February 25, 2013 notice to the petitioner stating that effective April 1, 2013 her FS benefits would increase from \$39 to \$71. See Exhibit 1.
4. The petitioner receives monthly Social Security of about \$1,131.00.
5. The county agency has not sent any negative notice to the petitioner which has reduced the petitioner's FS benefits of \$71 since April, 2013.
6. The petitioner alleged without any receipts or documentation that she has relevant medical and shelter expenses (due to the poor conditions or health concerns of the motel in which she resides) which might be deductions in the calculation of her FS benefits as of April 1, 2013.
7. During the August 26, 2013 hearing, there was insufficient reliable evidence in the hearing record to determine whether the county agency correctly calculated the petitioner's FS benefits as of April, 2013.

DISCUSSION

During the August 26, 2013 hearing, petitioner frequently interrupted both this ALJ and the county representative. She insisted upon discussing issues which were not relevant to this FS case such as general health concerns about blood in her bedding and mosquitos in her apartment (possible public health concerns). At the request of this ALJ, ESS Simon agreed to send a referral to a social worker to attempt to assist the petitioner with possible public health concerns, as DHA has no jurisdiction in that venue. During the hearing, petitioner demonstrated a volatile personality. It is suggested that she should make all efforts to listen to the social worker and attempt to cooperate with him/her in addressing her public health concerns.

Because petitioner had no receipts or documentation of her alleged relevant medical and shelter expenses, this ALJ set the following schedule to which both parties agreed: a) **By September 2, 2013**, petitioner should submit all relevant medical or shelter expenses to ESS Jody Simon at the county agency which are related as possible expenses to the calculation of her FS benefits as of April, 2013; b) **By September 9, 2013**, ESS Simon agreed to review any submissions by petitioner, and send a new detailed notice explaining fully the calculation of petitioner's FS benefits retroactive to April 1, 2013. If petitioner fails to submit her evidence to the county agency by September 2, 2013, then the county agency should nevertheless send a letter to petitioner confirming what has or has not been received from petitioner.

If petitioner disagrees with the new notice of decision issued by the county agency, she must request a new appeal with DHA and attach to her appeal letter a full copy of that new notice.

CONCLUSIONS OF LAW

There is insufficient information in the hearing record to make a determination as to whether the county agency correctly calculated the petitioner's FoodShare (FS) benefits as of April 1, 2013, and thus the case is remanded for additional, reliable information and county agency re-determination.

THEREFORE, it is ORDERED

The matter is remanded to the county agency (**Attention: ESS Jody Simon**) and the petitioner with the following instructions: a) **By September 2, 2013**, petitioner should submit all relevant medical or shelter expenses to ESS Jody Simon at the county agency which are related as possible expenses to the calculation of her FS benefits as of April, 2013; b) **By September 9, 2013**, ESS Simon agreed to review any submissions by petitioner and send a new detailed notice explaining fully the calculation of petitioner's FS benefits retroactive to April 1, 2013. If petitioner fails to submit her evidence to the county agency by September 2, 2013, then the county agency should nevertheless send a letter to petitioner confirming what has or has not been received from petitioner.

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 28th day of August, 2013

\sGary M. Wolkstein
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 August 28, 2013.

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