



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/149845

PRELIMINARY RECITALS

Pursuant to a petition filed June 04, 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 July 10, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in reducing petitioner’s FS to \$100 effective July 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Paul Fredrickson
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner’s FS allotment was reduced to \$174 in February 2013.
3. Petitioner filed a request for hearing on June 7, 2013. Petitioner’s June 7, 2013 request for appeal was untimely with regard to this reduction.

4. On June 17, 2013, the Department sent another notice indicating a reduction to \$100 effective July 1, 2013.
5. Petitioner receives \$1,224 in social security. In June, the county updated the FS budget to reflect this amount actually received. Prior to June it had been budgeting \$1,204.
6. The county had been budgeting a \$250 medical expense deduction to United Health Care. This expense ended for petitioner in December 2012. In June, the agency removed this deduction from the FS calculation as it was not actually being paid any longer.

DISCUSSION

Petitioner's request for hearing was untimely with regard to the February notice. Subsequent to her request for hearing, petitioner's FS was again reduced. Of course, her June 7 request for hearing was not an appeal from the June 17 notice. But, in the interest of efficiency and in avoidance of hypertechnical application of the law in these cases, I address the propriety of the July 1 reduction to \$100.

FS allotments are a function of various factors including the number of persons in the household, and the gross income of the household. There are some deductions that are permitted when counting the income of a household. One of these is a deduction for medical expenses. In this case, the petitioner had a change in her medical expense deduction because she no longer paid the \$250 sum to United Healthcare. Petitioner conceded this expense was no longer being paid. Petitioner also agreed that the \$1,224 figure was the correct SS income number rather than the \$1,204 that the county had been using.

Petitioner argued that she has in excess of \$777 dollars in medical expenses that should be included in the deduction. But, she admitted that she had not provided any documentation or information of these expenses to the agency. The agency cannot include expenses as a deduction if it is not made aware of the expenses. Its failure to include unknown expenses is not error. The agency representative at hearing agreed to review the documentation to determine whether any expenses were allowable and, if so, to recalculate the future allotment.

It appears in this case that the county's reduction simply brought the FS allotment to the accurate number. It had mistakenly been budgeting less SS than petitioner actually received. It also had given her the benefit of the \$250 medical expense deduction from January through June even though she was not really paying it. The agency provided the budget calculations it applied in February, prior to the reduction and the screen from June showing why the reduction results. I can find no error. While I understand that petitioner has difficulty making financial ends meet, the FS program serves many individuals and has limited resources. I must simply apply the rules of the program.

CONCLUSIONS OF LAW

The Department is not in error in reducing FS allotment effective July 1, 2013 because petitioner no longer had a \$250 medical expense deduction and because her budgeted unearned income was corrected to match the actual sum received.

THEREFORE, it is

ORDERED

That this appeal 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 Madison,
Wisconsin, this 24th day of July, 2013

\sJohn P. Tedesco
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 July 24, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability