



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/150531

PRELIMINARY RECITALS

Pursuant to a petition filed July 9, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Green County Dept. of Human Services to deny FoodShare benefits (FS), a hearing was held on August 20, 2013, by telephone.

The issue for determination is whether the county correctly determined that petitioner's was over the FS limit.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: T. Kupersmith (Did not appear)
Green County Dept. of Human Services
N3152 State Road 81
Monroe, WI 53566

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Green County.
2. Petitioner applied for FS on May 30, 2013 for a three-person household.
3. The worker determined gross monthly earned income from petitioner's two most recent pay stubs (\$1,229.76 on May 15 and \$1,037.30 on May 31). In addition petitioner receives \$95 per week child support, which the worker multiplied by 4.3 to determine a monthly amount.

4. Petitioner pays \$450 per month rent plus utilities. She pays a babysitter \$20 per day for care, but she did not report having a child care expense on her application.
5. By a notice dated June 25, 2013, the county denied FS because net income was above the limit.

DISCUSSION

In determining the amount of FS to be issued each month, the county 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. 7 C.F.R. §273.9(d)(1); FS 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); FS 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); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS 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); FS Handbook, App. 4.6.7.

The gross income limit for a household of three is \$3,182. Handbook, App. 8.1.1. The net income limit for a household of three is \$1,591. Handbook, App. 8.1.1.

In petitioner's case the county used the two most recent pay stubs to get monthly income. I note that if year-to-date income had been used the monthly income would have been higher. Thus total gross income was \$2,675.76. From that was deducted the 20% earned income (\$453.45) and standard deductions (\$149), leaving \$2,073.31. One-half of that amount is \$1,036.65. Shelter costs total \$892 (\$450 rent plus the \$442 utility standard). Since shelter costs are less than \$1,036.65, there is no shelter deduction. Therefore \$2,073.31 is net income, and that is almost \$500 over the net income limit.

I note that petitioner can get a child care deduction if her babysitter verifies payment. There is no requirement in the Handbook, App. 4.6.6 that the care provider be a licensed center. The only provision is that a household cannot get the deduction if a parent is available to care for the child. I checked petitioner's application and she did not report a child care expense. Even so, given how much the net income is over the limit, the cost of babysitting would have to be approximately \$300-\$400 per month before the income would get near the limit.

As I noted, if petitioner's recent pay stubs show decreased income, she could always file a new Access application for FS. However, I must conclude that the county correctly denied FS following the May 24, 2013 application.

CONCLUSIONS OF LAW

Petitioner's net income was above the FS net income limit when she applied in May, 2013.

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 21st day of August, 2013

\sBrian C. Schneider
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 21, 2013.

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