



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/150729

PRELIMINARY RECITALS

Pursuant to a petition filed July 15, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Green Lake County Dept. of Human Services to discontinue FoodShare benefits (FS), a hearing was held on August 28, 2013, by telephone.

The issue for determination is whether the agency correctly budgets monthly disability settlement payments as income.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Adam Spitler
Green Lake County Dept. of Human Services
571 County Road A
Green Lake, WI 54941

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Green Lake County. She receives FS.
2. On July 2, 2013, petitioner reported that she now was receiving \$1,222 per months from an insurance settlement from a worker's compensation claim. The settlement gave her an \$18,542 lump sum (which she used immediately to pay bills and make improvements on her home), and then \$1,222 per month until \$50,365 was paid out. The payment was for permanent partial disability.

3. The county budgeted the monthly payments as income. By a notice dated July 15, 2013, the county informed petitioner that FS would end August 1, 2013 because her income was over the FS 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 net income limit for a one-person household is \$931. Handbook, App. 8.1.1. With the \$1,222 payments added as income petitioner's net income after the various deductions is \$2,204, well above that limit.

The issue is how the worker's compensation payments should be budgeted. The FS Handbook, App. 4.3.4.2, no. 7 clearly provides that worker's compensation benefits are counted as income. See also 7 C.F.R. §273.9(b)(2)(ii), which provides that worker's compensation and disability benefits are considered to be income. On the other hand, a lump sum payment is considered an asset. Handbook, App. 4.4.1.5. In this case the \$18,000 payment is a lump sum that would be considered an asset. However, the monthly payments are recurring and thus are considered to be income. The county correctly determined that petitioner was over the FS income limit.

CONCLUSIONS OF LAW

A monthly permanent partial disability settlement payment is considered to be income for FS purposes.

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 3rd day of September, 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 September 3, 2013.

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