



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/151057

PRELIMINARY RECITALS

Pursuant to a petition filed July 29, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services – Wis. Rapids in regard to FoodShare benefits (FS), a hearing was held on September 10, 2013, by telephone.

The issue for determination is whether the Department correctly denied the petitioner’s FS application of May 31, 2013, for failure to adequately verify income.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Price County.
2. The petitioner applied for FS on May 31, 2013. On June 6, 2013, a verification request was mailed to the petitioner, seeking verification of the petitioner’s income from a rental property, a

small farm, and employment at [REDACTED] [REDACTED], verification of pregnancy, and a signed application form. With respect to the petitioner's rental income, the verification request sought "expected monthly business income" and gave an example of acceptable verification as being "most recently filed Federal tax forms and schedules...if Sole Proprietorship: Form 1040 and schedules such as Schedule F, C or E and Form 4797, 88239, or 4835." Verification was identified as being due within by July 1, 2013. *See*, Exhibit 1.

3. On June 19, 2013, the petitioner submitted satisfactory verification of her pregnancy, [REDACTED] earnings and farm income. Her submission included Form 1040 and schedule F (farming), but no schedule E for the rental property. On June 20, 2013, the Department mailed another verification request to the petitioner, seeking verification of her income from the rental property and (incorrectly) of her wages from [REDACTED] [REDACTED]. With respect to the rental income, the verification request used the same language as in Finding #2 above. The due date for FS benefits remained July 1, 2013. *See*, Exhibit 2. The petitioner received this notice.
4. On July 2, 2013, the Department issued written notice to the petitioner advising that her FS had been denied, for failure to submit requested verification. *See*, Exhibit 3.
5. The petitioner subsequently reapplied for FS and became eligible in August 2013. She seeks FS for June and July 2013 via this appeal.

DISCUSSION

An agency must request income verification. *FS Wisconsin Handbook (Handbook)*, §§1.2.4.1- 1.2.4.3, at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm> . The agency must give the client at least 10 days (or the balance of the 30 day application processing period) to supply requested verification. *Handbook*, §1.2.1.2. The responsibility for supplying verification then rests on the recipient. *Id.*, §1.2.1.3. When requested income verification is not timely received, the agency may correctly deny an application or close a case undergoing review. *Id.*, §1.2.4.1; 7 C.F.R. §273.2(g)(3).

The agency correctly requested income verification here. The petitioner submitted part, but not all, of her tax return. She omitted schedule E, which is needed to determine rental income. The petitioner testified that she would have submitted E if she had realized that it was needed. However, it is not clear to me why a person would only submit part of a tax return, including schedule F, and then omit another relevant schedule. The petitioner complained that the Department's generic verification request language was confusing. If the petitioner had submitted some other type of proof of her rental income (or Schedule C, showing rental income), the result might possibly have been different here. However, it is not reasonable to expect approval for benefits when no verification of the rental income has been proffered. The petitioner pointed out that net income from schedule E is listed on line 17 of her Form 1040. However, the Department is required to add depreciation back into income, and that information is found on schedule E, rather than the Form 1040. *Handbook*, § 4.3.3.5.3. Thus, the Department could not complete the determination of her FS eligibility with the information that was supplied.

CONCLUSIONS OF LAW

1. The Department correctly denied the petitioner's May 31, 2013, FS application, due to failure to verify rental income.

THEREFORE, it is

ORDERED

That the petition 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 18th day of September, 2013

\sNancy J. Gagnon
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 18, 2013.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability