



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/151147

PRELIMINARY RECITALS

Pursuant to a petition filed August 05, 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 August 28, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in increasing petitioner's FS effective August 1, 2013 rather than July 1, 2013 as a result of a decrease in petitioner's income.

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: Jose Silvestre
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 # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was enrolled in FS. The agency had budgeted unemployment compensation and earned income for petitioner.
3. Petitioner reported a change in her income to the agency on July 15, 2013.

- 4. As a result of this reported change in income, the agency increased petitioner’s allotment of FS effective for the month of August 2013.
- 5. Petitioner appealed because she wished the increase in FS allotment to apply to July.

DISCUSSION

The facts of this case are not in dispute. FS rules effect a change in allotment as a result of an income change as of the first of the following month:

6.1.3.3 Changes That Cause an Increase in Benefits, Including Person Adds

7 CFR 273.12(c)(1)

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification.

....
FSWH, 6.1.3.3 This handbook language is consistent with the controlling federal FS rule. 7 C.F.R. §273.3(a).

Petitioner claimed that she notified the agency of the reduction in income in June 2013. But, she had no documentation to support this claim. The case comments from the agency do not reflect such communication. The only agency entry for June indicates a child care authorization on June 17, 2013. I suspect that if the county agency was aware that petitioner was no longer working then that authorization would not have been given. On this record, I cannot find that notification of the income reduction was made in June.

The agency was correct to raise the allotment for August as this was the first day of the month following the report of the change.

CONCLUSIONS OF LAW

The Department did not err in making the FS allotment change effective in August.

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 20th day of September, 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 September 20, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability