



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/151263

PRELIMINARY RECITALS

Pursuant to a petition filed August 10, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Winnebago County Department of Human Services in regard to FoodShare benefits (FS), a telephonic hearing was held on September 25, 2013, at Oshkosh, Wisconsin. At the request of the petitioner, the record was held open for his submission of new evidence to the county agency and DHA, and then for the county agency's response. About three weeks later, petitioner did fax to DHA on October 21, 2013 a September 27, 2013 Social Security letter which confirmed that the county agency correctly was using \$649 as his Social Security benefit as of April, 2013.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare (FS) benefits effective July 1, 2013, due to an increase in Social Security benefits for himself and his wife.

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: Leslie Vosters, ES Supervisor
Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County who resides in a household of two with his wife, [REDACTED].
2. The petitioner receives FoodShare (FS) benefits for a household of two.
3. During about June, 2013, the county agency discovered that petitioner's Social Security retirement would increase to \$649, and his wife's Social Security Disability income would increase from \$437 to \$458.
4. The county agency sent a June 17, 2013 Notice of Decision to the petitioner stating that effective July 1, 2013 her FS benefits would be reduced from \$214 to \$173, due to the household's increases in Social Security benefits.

DISCUSSION

In determining the amount of FS to be issued each month, the county must **budget all income of the FS household, including all earned and unearned income.** 7 C.F.R. §273.9(b). From the gross household income, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is \$134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction - for medical expenses exceeding \$35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and (5) shelter expenses deduction - 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). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

During the September 25, 2013 hearing, county agency supervisor, Leslie Vosters, provided petitioner a detailed explanation regarding the calculation of the July 1, 2013 reduction in his FS benefits, and that the county is simply following FS law and policy. During that hearing, petitioner argued that the county agency was inaccurately using the household's Social Security benefits as of June, 2013 to reduce his FS benefits.

At the request of the petitioner, the record was held open for his submission of new reliable evidence to the county agency and DHA to confirm the Social security benefits of himself and his wife, and then for the county agency's response. The petitioner did fax to DHA on October 21, 2013 a September 27, 2013 Social Security letter which confirmed that the county agency correctly was using \$649 as his Social Security benefit as of June, 2013. Furthermore, petitioner indicated in handwriting on that notice that he had no other document to submit regarding his household's Social Security benefits. As a result, petitioner was unable to refute the county agency's case that it had correctly calculated the petitioner's income for a FS household of two based upon budgeting increased Social Security benefits for himself and his wife. In reviewing the county agency's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I must conclude that the county agency correctly reduced the petitioner's FoodShare benefits from \$214 to \$173 effective July 1, 2013.

CONCLUSIONS OF LAW

The county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$214 to \$173 effective July 1, 2013 due to an increase in the household's Social Security benefits.

THEREFORE, it is

ORDERED

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 October, 2013

\sGary M. Wolkstein
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 October 21, 2013.

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