



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/151974

PRELIMINARY RECITALS

Pursuant to a petition filed September 11, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on October 28, 2013, at Janesville, Wisconsin.

The issue for determination is whether the Department erred in its reduction of petitioner's FS allotment from \$82 to \$37 effective October 1, 2013.

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: Mary Donohue

Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County. He is a FS recipient.

2. On September, petitioner underwent a periodic review of FS eligibility. He provided two pay stubs dated 8/9/13 (gross pay: \$518.56) and 8/23/13 (gross pay: \$497.28). The agency calculated a monthly gross income of \$1,015.92.
3. On September 6, 2013 the Department sent notice to petitioner informing him that it would be reducing his FS allotment from \$82 to \$37 effective October 1, 2013.
4. Petitioner filed a timely appeal.

DISCUSSION

Petitioner concedes that his income on the submitted paychecks was higher than had previously been budgeted by the agency. He stated that “the error was really mine because I didn’t realize I had extra pay on those check stubs at the time.” He stated that this amount is not his usual gross income and that these checks reflected an extra day’s pay in the pay periods. He also stated that he has been picking up and extra day or an extra half day for “these last few months” and that he needed to go back to March 2013 pay stubs (see ex. #4) to find the last period where he was paid his “usual” income.

The FS allotment is determined by a person’s income. As income fluctuates, so will the appropriate FS allotment. Petitioner concedes that he had been paid more than the agency had previously budgeted. This is the reason for the decrease in allotment after the August paystubs were provided and the agency realized petitioner was making more money. The calculation of the allotment reflected in ex. #5 does not appear to be in error.

If petitioner’s income is now lower than the August paystubs reflect, he should provide the most recent verification to the agency.

CONCLUSIONS OF LAW

The Department did not err in reducing petitioner’s FS.

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 1st day of November, 2013

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 1, 2013.

Rock County Department of Social Services
Division of Health Care Access and Accountability