



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152075

PRELIMINARY RECITALS

Pursuant to a petition filed September 12, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Manitowoc County Dept. of Human Services to deny FoodShare benefits (FS), a hearing was held on November 19, 2013, by telephone. The hearing was a rehearing granted by the Division of Hearings and Appeals on October 22, 2013.

The issue for determination is whether the county correctly determined petitioner's income.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Cheryl McNamara
Manitowoc County Dept. of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. Petitioner initially applied for FS in March, 2013. He was considered a one-person household because his two children already were on their mother's separate FS case, and because the court order stated that she had primary physical placement.

3. Petitioner reported a new job in late August. The verification showed that his monthly income was anticipated to be \$1,920.80. By a notice dated August 29, 2013, the county informed petitioner that FS would end October 1, 2013 because net income was above the limit.
4. Petitioner's rent is \$300 per month plus utilities. He pays \$344 per month child support.

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 \$152 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 gross income limit for a one-person household is \$1,916. Handbook, App. 8.1.1.1.

In petitioner's case his anticipated gross income was above the gross income limit. Had the income been just a few dollars less he likely would have been eligible for at least some FS because the combination of the earned income, child support, and shelter deductions would have put him below the \$958 net income limit.

Petitioner explained that his income has not been as high as anticipated, usually about \$1,500 per month. The county agreed to review his eligibility for December, but for purposes of this hearing I must conclude that the county correctly determined petitioner's FS based upon the income verified in August, 2013.

CONCLUSIONS OF LAW

Petitioner's anticipated gross income was above the FS limit after he reported a new job in August, 2013.

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 20th day of November, 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 November 20, 2013.

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