



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/152078

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 16, 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 October 22, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the respondent properly applied a change in petitioner's address and shelter cost (rent).

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: LaShon Johnson  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On or about July 5, 2013, petitioner contacted respondent to report a new address. Exhibit 2.
3. Petitioner completed a six-month review in August, 2013. She reported that she pays \$650.00 in monthly rent. Exhibit 5.

4. The respondent budgeted the rent, and notified petitioner that she would receive an allotment of \$289.00 for the month of September, 2013.
5. Petitioner filed a request for hearing alleging that she provided updated address information in July, which should have resulted in the change in rent being budgeted and affecting benefits in August, 2013.

### **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 \$142 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 and child support. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 4.6.5. and 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.

Respondent noted that it received a six-month review (SMRF) in August, which reported an increase in petitioner's rent. As such, respondent argues that it properly concluded that petitioner's FS allotment changed effective September 1, 2013.

Petitioner credibly testified, and electronic Case Comments confirm, that she informed the respondent of her new address and rent on or about July 5, 2013. Petitioner stated that she offered to send a copy of her lease, but the worker with whom she spoke indicated that she would not need to do so. Respondent testified that the address that was updated was petitioner's mailing address, as opposed to the residence address. Respondent conceded that she could not say if the update was correctly completed in July, 2013.

Based upon the totality of the record before me, I will remand this matter to the respondent to effectuate as of August, 2013, the change in rent reported in July, 2013.

### **CONCLUSIONS OF LAW**

The ESC failed to properly record petitioner's rental expense change in July, 2013, which would have impacted FS benefits for August, 2013.

**THEREFORE, it is**

**ORDERED**

That the matter be remanded to the respondent with instructions to re-determine petitioner's FS for August, 2013, acknowledging that the change in rent was reported in July, 2013. As such, petitioner's FS allotment of \$289.00 should have commenced in August, not September of 2013. All action required by this Order shall be completed within 10 days following issuance of this Decision.

### **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 12th day of November, 2013

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\sPeter McCombs  
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 12, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability