



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/152412

PRELIMINARY RECITALS

Pursuant to a petition filed September 27, 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 31, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's FoodShare benefits were correctly reduced because of a household size change.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

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

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

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. Petitioner's FoodShare were reduced effective October 1, 2013.
3. Petitioner's household included himself, his spouse and their grandchild, i.e., it was a household of 3, prior to September 2013.

4. Petitioner's granddaughter left Petitioner's household as of September 2013 changing Petitioner's household to a group of 2. It was this change that reduced Petitioner's FoodShare.
5. During the hearing the allotment formula for Petitioner's FoodShare was reviewed. There were two changes – a \$35.00 self-employment income amount is no longer and Petitioner has significant medical expenses that might impact the FoodShare allotment. The other income and expense figures shown on the allotment calculation (Ex # 8) were reviewed and there were no changes or errors.

DISCUSSION

The amount of FoodShare benefits that a FoodShare eligible household receives is dependent on income and household size. *See FoodShare Wisconsin Handbook (FSH), §8.1.2.* So at a given income level a household of three receives more FoodShare than a household of 2. There is no question here as to the change in household size. Thus I am sustaining the allotment change here that was based on the household size change.

Petitioner did, however, report an income change and medical expenses at the hearing. Changes reported in one month are effective in the month after the report. *FSH, §6.1.3.3.* Further, the allotment formula is as follows.

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$149 per month for a household of 1-3 persons, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction - the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$459.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.1 and 8.1.3.*

If the changes reported at the hearing do not affect Petitioner's allotment, he or his spouse may again request a hearing.

CONCLUSIONS OF LAW

That Petitioner's FoodShare were correctly reduced for October 2013 as household size changed.

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 Milwaukee,
Wisconsin, this 22nd day of November, 2013

\sDavid D. Fleming
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 22, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability