



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152779

PRELIMINARY RECITALS

Pursuant to a petition filed October 11, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Sauk County Dept. of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 13, 2013, by telephone.

The issue for determination is whether payments on an old medical bill for petitioner's late husband can be used as a deduction for FS purposes.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jodi Simon

Sauk County Dept. of Human Services
P.O. Box 29
Baraboo, WI 53913

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. Petitioner applied for FS on September 5, 2013 as a one-person household. She reported monthly income of \$1,189.99, medical expenses and insurance premiums of \$176.53, and \$263.85 for lot rent and insurance.
3. By a notice dated October 7, 2013, the county informed petitioner that she would receive \$16 per month FS, reduced to \$15 in November based upon a nation-wide FS reduction.

4. Petitioner pays \$25 per month for her late-husband's medical bill incurred prior to his death in 1995. The county did not include the payment as an excess medical expense.

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.

At issue is the \$25 monthly payment on petitioner's husband's medical bill. The federal regulation concerning the deduction reads: "That portion of medical expenses in excess of \$35 per month, excluding special diets, incurred by any household member who is elderly or disabled." 7 C.F.R. §273.9(d)(3). The household is defined as individuals who are part of the FS application. 7 C.F.R. §273.1(a). The Department's FS Handbook, Appendix 4.6.4.1, explains the situation in petitioner's case as follows: "Hospitalization or outpatient treatment, nursing and nursing home care. This includes payments by the FS group for a person who was a FS group member immediately before entering a state recognized hospital or nursing home."

Because petitioner's husband was never part of her FS group, a bill he incurred in 1995 cannot be used in 2013 as an excess medical expense deduction even though petitioner still is repaying it. I must conclude that the county was correct.

As noted by Ms. Simon during the hearing, even if petitioner were allowed the deduction her FS would not increase. Petitioner's net income after the various deductions is \$630.84. To receive even one dollar more of FS per month, her net income would have to be \$576 or lower. See FS Handbook, Appendix 8.1.2. Thus the additional \$25-\$30 deduction would not increase petitioner's FS.

CONCLUSIONS OF LAW

A payment on a medical bill incurred by petitioner's late husband, who never was in petitioner's FS group, cannot be used as an excess medical expense deduction by petitioner for current FS calculations.

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

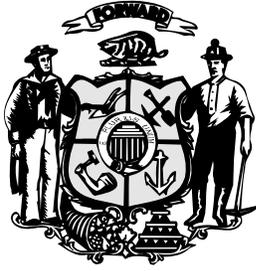
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

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 18th 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 18, 2013.

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