



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153050

PRELIMINARY RECITALS

Pursuant to a petition filed October 24, 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 November 06, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the respondent correctly denied or reduced petitioner's FS allotment based on household income.

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, Room 651
Madison, Wisconsin 53703

By: Jose Silvestre

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
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. The respondent included self-employment for petitioner and added that to income of petitioner's daughter and husband in calculating household income.
3. Petitioner indicates that she has not worked in the past year.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's household 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, § 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, § 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, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, § 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, § 4.6.7.

The respondent explained that:

... Eligibility was re-determined for the month of 11/13 and client was determined to be eligible for a FS benefit amount of \$168.00. The income being budgeted consisted of employment income from [REDACTED] for an amount of 666.50 using information from [REDACTED] forms dated 10/14/13. Self-employment income gathered from 2012 taxes which consists of \$536.50 a month for [REDACTED] and \$951.75 a month for [REDACTED]. For a total [REDACTED] income of \$2,154.75, client received an earned income deduction of \$430.95 and a standard deduction of \$152 and also a shelter deduction of \$478 and net income was budgeted at 1,093.80 30% of net adjusted income of \$328.20 [subtracted] from maximum FS allotment for a [household] of 3 \$497 = \$168 client's FS allotment.

The respondent's math is calculated properly, if one assumes that the income figures are correct. The petitioner argues that the numbers are not correct, and that she has not worked since April, 2013, when she underwent surgery. Petitioner asserts that she informed respondent of her lack of employment during her renewal in October, and respondent concedes that there may have been a misunderstanding in this regard. As such, I will remand this matter to the respondent to review and re-determine petitioner's FS allotment, excluding any self-employment income attributed to petitioner.

CONCLUSIONS OF LAW

Respondent erroneously attributed self-employment income to petitioner.

THEREFORE, it is

ORDERED

That this matter shall be remanded to the respondent to review and re-determine petitioner's FS allotment, deleting the petitioner's ascribed self-employment (\$536.50/month) from the household's income. All actions 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, Room 651, 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 17th day of December, 2013

\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 December 17, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability