



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153098

PRELIMINARY RECITALS

Pursuant to a petition filed October 23, 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 20, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in reducing petitioner FoodShare (FS) from \$527 to \$222 effective November 1, 2013.

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: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On October 8, 2013 petitioner submitted recent pay stubs as part of a periodic review of FS eligibility. For one of the employers, [REDACTED], the income was nearly double what had previously been reported and budgeted.

3. Following the review, monthly income to the household was budgeted at \$2,050.54 for this 4-person household.
4. The Department sent notice dated October 14, 2013 to petitioner informing her that he FS would fall to \$212 effective November 1, 2013. The notice stated that this reduction was due to increased income into the household.
5. The Department sent notice dated October 31, 2013 to petitioner informing her that he FS would fall to \$222 effective November 1, 2013. This change was due to calculation of overtime by the agency.
6. Petitioner filed a timely appeal.

DISCUSSION

Petitioner's only argument was that she does not usually work as much at [REDACTED] as the pay stubs she submitted to the agency reflected. She stated that she picked up extra hours during those pertinent pay periods.

But, the agency must rely on the best evidence it has available. Petitioner provided these pay stubs and petitioner concedes that the stubs are accurate. They were the most recent pay stubs available at the time of the review. But, petitioner did not provide other pay stubs to reflect what she describes as "typical" weekly hours. Petitioner also did not provide any additional pay stubs reflecting fewer hours worked after the review. Petitioner must understand that if she provides more recent information that shows lower income she is likely to have an increase in FoodShare. But, the reduction in this case appears correct based on the documentation that petitioner provided to the agency at time of review.

CONCLUSIONS OF LAW

The agency did not err in reducing the FS allotment based on an increase in income.

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, 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 11th day of December, 2013

\sJohn P. Tedesco
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 11, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability