



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153216

PRELIMINARY RECITALS

Pursuant to a petition filed November 1, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Grant County Dept. of Social Services to reduce FoodShare benefits (FS), a hearing was held on December 19, 2013, by telephone.

The issue for determination is whether the county correctly determined petitioner's FS when he did a renewal in late October, 2013.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Denece Udelhoven
Grant County Dept. of Social Services
P.O. Box 447
Lancaster, WI 53813

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Grant County.
2. For most of 2013 petitioner received \$177 per month FS as a one-person household based upon his income and expenses. That amount reduced to \$166 in November due to the expiration of federal stimulus funds.
3. Petitioner had a review due by the end of November, 2013. He filed the renewal form and provided copies of his four most recent pay stubs.

4. Prior to the review the county was budgeting \$203.09 as weekly income. The weekly average of the four pay stubs petitioner provided for his renewal was \$264.19.
5. Petitioner pays \$295 per month rent plus utilities.
6. By a notice dated October 30, 2013, the county informed petitioner that FS would be reduced to \$72 effective December 1, 2013.

DISCUSSION

As a first point petitioner intended to appeal the reduction in FS effective December 1, 2013. However, the staff person who processed his appeal thought he intended to appeal the November 1 reduction from \$177 to \$166, and the appeal went through as for the November reduction. I will deal with the December reduction since that is the one petitioner intended to appeal.

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.

The sole change between November and December was an increase in income from \$873.29 per month (\$203.09 weekly times 4.3 – weekly income is multiplied by 4.3 because there are slightly more than four weeks each month) to \$1,136.02 (\$264.19 weekly times 4.3). That \$266 monthly increase easily is enough to cause FS to drop by almost \$100. Not only does the income increase but the shelter deduction decreases; because the shelter expense is compared to one-half of income, obviously there is less excess expense when income increases. I reviewed the calculations, and find no error. Petitioner's monthly income of \$1,136.02 minus the \$227.20 earned income deductions (\$227.20 is 20% of the gross income) minus the \$152 standard deduction minus the \$366.59 shelter deduction leaves \$390.23 as net income. A person with that net income is entitled to \$72 FS. See FS Handbook, App. 8.1.2.

Petitioner complained that he received higher FS in the past with similar income. I looked at petitioner's FS history and found that he regularly received maximum FS of \$200 per month from 2010 through May, 2012. After that date petitioner received much less in FS except for a four-month period in 2013 when he must have been unemployed. During the entire period from 2010 through May, 2012 the county record showed no income being budgeted, which would explain why petitioner received maximum FS.

I can only determine if the amount was correct for December, 2013, and I find that it was correct.

CONCLUSIONS OF LAW

The county correctly determined petitioner's December, 2013 FS based upon increased income.

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, 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 20th day of December, 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 December 20, 2013.

Grant County Department of Social Services
Division of Health Care Access and Accountability