



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153714

PRELIMINARY RECITALS

Pursuant to a petition filed November 23, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on January 08, 2014, at Janesville, Wisconsin.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$125 to \$16 effective October 1, 2013 due to a reduction of FS group size from 5 to 1 person.

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: Alicia Pritchard, ES Supervisor
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 45 year old resident of Rock County who resided with her four children.
2. The petitioner received FoodShare (FS) benefits for herself and her four children.
3. Based upon a June, 2013 Court Order, the county agency removed petitioner's four children from her home, and placed those children with their father, [REDACTED] [REDACTED] in his home and granted him full custody. Mr. [REDACTED] received primary placement of the four children during June, 2013 due that Court Order.
4. During September, 2013, petitioner received Social Security of \$1,120 and State SSI of \$83.78 for a total household income of \$1,203.78.
5. The county agency sent a notice to the petitioner stating that her FS benefits would be reduced from \$125 to \$16 effective October 1, 2013, due to a decrease in her FS group size from 5 to 1 person.
6. The county agency stipulated that petitioner was entitled to FS benefits of \$75 for November and December, 2013. Petitioner's January, 2014 FS was reduced to \$68 due to an increase in her Social Security income from \$1,120 to \$1,137.

DISCUSSION

The specific FS policy regarding the placement situation in this case states:

3.2.1.1 Joint or Shared Physical Custody of Children

Children are included in the household where they reside when they are under the care and control of a parent or other caretaker in that household. There may be situations when the residence of a child is not easily determined. There are many methods that can be used to determine the child's residence. If the residence of a child is questionable, court documents can be used to determine if there is a primary caretaker designated. It may be a situation of joint custody and a 50-50 custody split. If one parent is not designated as primary caretaker, the parents can be asked to decide. Individuals can only be included in one food unit.

Only one parent can receive FS for a child. . .

(Emphasis added).

FoodShare Wisconsin Handbook, App. § 3.2.1.1.

In this case, the petitioner was not contesting that her ex-husband, [REDACTED] [REDACTED] received primary placement and custody of their four children during June, 2013 due to a Court Order. As a result, the county agency correctly removed the four children from petitioner's FS group resulting in the reduced FS group of one for the petitioner's FS benefits.

During the January 8, 2014 hearing, ES Supervisor Alicia Pritchard provided petitioner a detailed explanation regarding the calculation of the October 1, 2013 reduction in her FS benefits, and the increases in her FS for the following months. See Findings of Fact # 3 - #6 above. The county is simply following FS law and policy. Ms. Pritchard explained how the petitioner's FS benefits had been calculated to be \$16 as of October 1, 2013 because her FS household size had decreased from five to one person, and her Social

Security income. The petitioner was unable to refute the county’s case that her four children should be removed from her FS group. The petitioner was also unable to refute that the county agency had correctly calculated and reduced her FS benefits.

The petitioner was upset during the hearing, and argued that it is unfair that her FS benefits have been reduced because she already had difficulty paying her expenses for herself. However, in reviewing the county agency’s calculation of petitioner’s FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I conclude that the county agency correctly reduced the petitioner’s FoodShare (FS) benefits effective October 1, 2013, due to a reduction in petitioner’s FS group size from five to one person.

CONCLUSIONS OF LAW

The county agency correctly reduced the petitioner’s FoodShare (FS) benefits from effective October 1, 2013, due to a reduction in petitioner’s FS group size from five to one person.

THEREFORE, it is ORDERED

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 22nd day of January, 2014

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 22, 2014.

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