



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/154522

PRELIMINARY RECITALS

Pursuant to a petition filed December 28, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Manitowoc County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 22, 2014, at Manitowoc, Wisconsin.

The issues for determination are (1) whether the agency correctly included the petitioner's son's income as FS household income, and (2) whether the doctrine of claim preclusion directs a dismissal of this appeal.

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: Jodi Scott, ESS

Manitowoc County Department of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. The petitioner had been receiving FS for a household that included herself and her minor son, BC, Jr. She recently married, adding her husband and his earned income to the household.

3. The father of BC Jr. is [REDACTED] [REDACTED], who lives at a separate residence from the petitioner. The petitioner and Mr. [REDACTED] have joint custody and 50/50 placement of BC Jr.
4. BC Jr. receives a monthly Social Security benefit of \$628. [REDACTED] [REDACTED] is the Social Security representative payee, and receives the \$628. He does not share it with the petitioner.
5. The county agency has been budgeting the child's \$628 as unearned income to the petitioner in calculating her FS benefits. Effective May 1, 2013, the agency issued a notice to the petitioner advising that her FS would be reduced from \$23 to \$16, due to inclusion of her son's Social Security benefits as unearned income to her household.
6. The petitioner appealed the May 1, 2013 action, and a fair hearing was conducted before Administrative Law Judge Gary Wolkstein of this office. *See*, DHA Decision # FOO/148817 (Wis. Div. of Hearings & Appeals June 5, 2013)(DHS). He ruled that the county agency correctly included the child's Social Security income in the petitioner's household income. The petitioner did not appeal that decision to circuit court.

DISCUSSION

I adopt the reasoning from Judge Wolkstein's decision and incorporate his Discussion section herein by reference. Today's hearing presents the same parties, the same material facts, the same law, and the same issue as Judge Wolkstein's hearing. Thus, the legal doctrine of claim preclusion directs the same result without further consideration. This means that the county agency action is again upheld. The petitioner loses.

CONCLUSIONS OF LAW

1. The county agency correctly included the Social Security Child's Benefits received by the petitioner's minor child and household member, even though the non-household member father is the payee for said benefits.
2. The county agency's result is upheld under the doctrine of claim preclusion.

THEREFORE, it is

ORDERED

That the petition 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 23rd day of January, 2014

\sNancy J. Gagnon
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 23, 2014.

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