



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/155388

PRELIMINARY RECITALS

Pursuant to a petition filed February 06, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to FoodShare benefits (FS), a hearing was held on March 20, 2014, at Waukesha, Wisconsin.

The issue for determination is

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Kathy Jones
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Waukesha County.
2. On January 31, 2014, the agency processed the Petitioner's Six Month Report Form (SMRF). Petitioner reported he started a new job at [redacted]. The agency verified the Petitioner's employment and income.

3. On February 3, 2014, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would decrease to \$15/month based on earned income from [REDACTED] of \$290.58/week or \$1,249.49/month.
4. Petitioner does not pay any rent expense.
5. On February 6, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

FS benefits are calculated pursuant to 7 C.F.R. § 273.9. The maximum FS allotment amounts, based on household size, are listed at FoodShare Wisconsin Handbook, Appendix 8.1.8. In determining FS allotments, the agency must include all earned and unearned income. It then deducts an earned income deduction, standard deduction and shelter costs to determine adjusted net income. Based on that adjusted income, the agency determines the FS allotment. I have reviewed the agency's calculations for the Petitioner's case. His monthly gross income of \$1,249.49 is under the gross income limit of \$1,916. The agency deducted an earned income deduction of \$249.89 and a standard deduction of \$152 from his gross income. The agency also applied a utility standard of \$450 which allowed for a shelter deduction of \$26.20. Petitioner's net adjusted income is \$821.40. Based on the Petitioner's net adjusted income and the FS maximum allotment of \$189, the Petitioner is entitled to a monthly FS allotment of \$15.

The petitioner has not identified any part of the agency's calculation as erroneous. He does not dispute the earned income calculated by the agency or any of the deductions. Rather, the petitioner contends that the benefit amounts are inadequate to meet the household's needs. I do not have equitable authority to change the allotment amounts. Based on the evidence, I conclude that the agency correctly determined the Petitioner's FS allotment is \$15/month.

If Petitioner's income decreases, or household expenses increase, or household composition changes, the petitioner may of course report these changes and may receive additional FS.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits.

THEREFORE, it is

ORDERED

That the Petitioner's 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 Milwaukee,
Wisconsin, this 1st day of April, 2014

\sDebra Bursinger
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 April 1, 2014.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability