



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/156923

PRELIMINARY RECITALS

Pursuant to a petition filed April 17, 2014, 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 May 19, 2014, at Janesville, Wisconsin.

The issue for determination is whether the Department erred in reducing petitioner’s FS to \$15 effective 12/1/14.

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: Melissa Genz

Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner was an ongoing FS recipient. He has two children. Only one lives with petitioner enough to be counted as part of his FS group. Thus, he has a FS group size of two.

3. Petitioner employment change in November. He left a temporary staffing agency and was hired as a permanent employee at the employer he was assigned to by the temp agency. As a result of this change, petitioner income increased. Petitioner contacted the agency with this change. The agency redetermined the allotment based on the new information.
4. Petitioner's new income was \$12 per hour at 40 hours per week. Petitioner also works approximately 5 hours of overtime at time and one-half.
5. Petitioner's FS allotment was changed to \$15 effective 12/1/14. Notice of that action was sent to petitioner on 11/27/14 to [REDACTED], WI.
6. Petitioner filed a request for hearing.

DISCUSSION

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 was, at the relevant time of the agency action, \$142 per month for a three person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin 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); FoodShare Wisconsin 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); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin 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); FoodShare Wisconsin Handbook, App. 4.6.7.

Petitioner did not dispute the income of \$2,451 asserted by the Department. The gross income limit for a household of two is \$2,588. See *FS Handbook* §§ 4.2.1, 8.1.1. The net income limit for a household of two is \$1,293. *FS Handbook*, App. 8.1.1.

Petitioner's household income is below the gross income limit. This is clear from the testimony & exhibits. The representative from the Department stated so during the hearing. Thus, he is categorically eligible for FS. After the earned income deduction and the standard deduction petitioner's net income was \$1,271.82. Thus, he only barely gets any FS at all. See budget screen in exhibit #3. According to FS Handbook 8.1.2, the FS allotment for a 2-person household with a net income of \$1,271.82 is \$15. I cannot find an error in the calculations of the Department.

CONCLUSIONS OF LAW

The Department did not err in determining the \$15 allotment because petitioner's income increased in November 2014 and the increased income caused the reduction in FS.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 30th day of May, 2014

\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 May 30, 2014.

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