



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/157110

PRELIMINARY RECITALS

Pursuant to a petition filed April 22, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on May 29, 2014, at Racine, Wisconsin.

The issue for determination is whether the Racine County Department of Human Services (the agency) correctly ended the Petitioner's FoodShare benefits effective May 1, 2014.

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: Yadira Luis, Economic Support Specialist and Rhonda Kramer, Team Lead
Economic Support Specialist
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Racine County.
2. On March 21, 2014, the agency sent the Petitioner a notice indicating that her Foodshare benefits would be ending because she did not provide requested proof of information. (Exhibit 7)

3. On March 31, 2014, the Petitioner completed a Six Month Report Form (SMRF). (Exhibit 4)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 22, 2014. (Exhibit 1)
5. On May 2, 2014, the agency sent the Petitioner a notice indicating that her application for FoodShare benefits was denied because the household income was over the program limits. (Exhibit 5)
6. Petitioner's household consists of four people, the Petitioner and her three children. (Exhibit 5, pg. 4)
7. Petitioner pays rent in the amount of \$260.00 and is responsible for paying for her gas and electric utilities. (Testimony of Petitioner; Exhibit 5, pg. 4)
8. Petitioner receives Social Security Disability Income in the amount of \$760.00 per month. (Exhibit 8)
9. Petitioner's daughter works at [REDACTED] Petitioner submitted two of her daughter's bi-weekly paychecks, one dated March 21, 2014, showing gross earnings of \$794.25 and a second dated March 7, 2014, showing gross earnings of \$540.00.

$$\$794.25 + \$540.00 = \$1334.25$$

$$\$1334.25 \div 2 = \$667.13 \text{ average bi-weekly pay}$$

$$\$667.13 \times 2.15 \text{ average bi-weekly pay periods per month} = \$1434.33 \text{ average monthly income}$$

(Exhibit 2)

10. Petitioner's other daughter works at [REDACTED] Petitioner submitted two of her daughter's bi-weekly paychecks, one dated March 10, 2014 showing gross earnings of \$178.21 and a second on dated March 24, 2014, showing gross earnings of \$307.55.

$$\$178.21 + \$307.55 = \$485.76$$

$$\$485.76 \div 2 = \$242.88 \text{ average bi-weekly pay}$$

$$\$242.88 \times 2.15 \text{ average bi-weekly pay periods per month} = \$522.19 \text{ average monthly income}$$

(Exhibit 3)

DISCUSSION

To be categorically eligible, most FoodShare groups must have income at or below 200% of the Federal Poverty Level (FPL). *FSH §4.2.1.1; 7 CFR 273.2(j)(2)*. "If the household's gross income goes over 200% of FPL, the case will close." *Id.*

However, "Households that include an elderly, blind or disabled member do not have a gross income limit, but must have net income that does not exceed 100% FPL and countable assets that do not exceed \$3,250." *FSH §4.2.1.5* For households with four people, 100% of FPL is \$1,963 per month. *FSH §8.1.1.1*

The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FSH § 4.3.1.*

Petitioner's Gross Household Income

Petitioner receives Social Security Disability Income in the amount of \$760.00 per month.

Petitioner's two daughters had earned income, which was documented using their bi-weekly paystubs. In calculating monthly income, the agency used a multiplier of 4.3 average weeks per month or 2.15 average bi-weekly pay periods per month. *Process Help §16.4.1*

Thus, the income from Petitioner's first daughter works out to be as follows:

One check dated March 21, 2014, shows gross earnings of \$794.25 and

A second check dated March 7, 2014, shows gross earnings of \$540.00.

$$\$794.25 + \$540.00 = \$1334.25$$

$$\$1334.25 \div 2 = \$667.13 \text{ average bi-weekly pay}$$

$$\$667.13 \times 2.15 \text{ average bi-weekly pay periods per month} = \$1434.33 \text{ average monthly income}$$

The income from Petitioner's second daughter works out to be as follows:

One check dated March 10, 2014 shows gross earnings of \$178.21

A second check dated March 24, 2014 shows gross earnings of \$307.55.

$$\$178.21 + \$307.55 = \$485.76$$

$$\$485.76 \div 2 = \$242.88 \text{ average bi-weekly pay}$$

$$\$242.88 \times 2.15 \text{ average bi-weekly pay periods per month} = \$522.19 \text{ average monthly income}$$

Petitioner's total gross household income is:

\$760.00 from SSDI

\$1434.33 earned income from daughter 1

\$522.19 earned income from daughter 2

\$2716.52 Total gross household income

Petitioner's Net Income

To determine net income, the following deductions are applied to gross income (*FSH, at § 4.6*):

(1) a standard deduction –

This is \$163 per month for a household of 4 people. *7 CFR § 273.9(d)(1)*

(2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*; For Petitioner this is:

$$\$1434.33 + \$522.19 = \$1956.52$$

$$\$1956.52 \times .20 = \$391.30$$

(3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;

(4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

The heating standard utility allowance (HSUA) is \$450 per month.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household, like Petitioner’s, has an elderly, blind or disabled member.¹

FSH, §§ 4.6.7.1 and 8.1.3.

Applying the deductions allowed under FSH, at § 4.6 to Petitioner’s gross income we have the following net income calculation for April 2014 forward:

Gross Income	\$2716.52		
Earned Income Deduction	-\$391.30	Rent	+\$260.00
Standard Deduction	-\$163.00	HSU	+\$450.00
No Medical Expenses exceeding \$35		50% Net income	-\$1081.11
No Dependent Care Expenses			
		<hr/>	
		Excess Shelter Expense	\$0
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Net Income	\$2162.22		
Excess Shelter Expense	-\$0		
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Total Net Income	\$2162.22		

Petitioner’s Net Income of \$2162.22 exceeded the 100% FPL limit of \$1,963 per month for a household of four. *FSH §8.1.1.1* Thus, per *FSH §4.2.1.5*, the agency correctly ended Petitioner’s FoodShare benefits effective May 1, 2014.

At the hearing, Petitioner expressed a great deal of frustration, because an income maintenance worker had erroneously told her that she would be receiving \$170.00 in Foodshare benefits per month, at the time she provided her daughter’s paystubs. While the Petitioner’s frustration and disappointment are understandable, it is regrettably, not a reason for which FoodShare benefits can be extended.

The Petitioner should note that if she has out of pocket medical expenses that would bring her monthly household income below \$1,963, or if the household income changes, she can reapply for FoodShare benefits.

CONCLUSIONS OF LAW

The agency correctly ended the Petitioner’s FoodShare benefit effective May 1, 2014.

¹ The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

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 Milwaukee,
Wisconsin, this 11th day of June, 2014

\sMayumi M. Ishii
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 June 11, 2014.

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