



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/157590

PRELIMINARY RECITALS

Pursuant to a petition filed May 12, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on June 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits for April, 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: Jose Sylvestre
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. On March 5, 2014, the Petitioner reported to the agency that she receives \$185/week in unemployment compensation (UC) benefits and that she is employed with 

3. On March 6 and March 15, 2014, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of employment and income with [REDACTED]
4. On March 14, 2014, the Petitioner contacted the agency regarding her employment with [REDACTED] and was informed of the need for verification.
5. On March 17, 2014, Petitioner was issued her final UC check.
6. On March 18, 2014, the agency received verification from [REDACTED] [REDACTED] [REDACTED] and pay statements for the Petitioner's last 30 days of pay. Based on the employment verification and pay statements, the agency budgeted monthly earned income of \$90.30.
7. On March 19, 2014, the agency issued a Notice of Decision informing the Petitioner that she would receive \$104/month in FS benefits effective April 1, 2014.
8. On April 25, 2014, Petitioner completed her FS renewal. She reported that she no longer receives UC benefits.
9. On May 12, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.
10. On May 16, 2014, the agency issued a FS supplement to the Petitioner for May, 2014.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$152 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 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); FSH, § 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); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 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); FSH, § 4.6.7.

In a fair hearing concerning the sufficiency of FS issued, the burden of proof is on the agency to demonstrate that it correctly computed the petitioner's FS allotments, and the petitioner must then rebut this evidence with evidence showing the agency was incorrect.

Recipients of FS benefits are responsible to report any changes that can affect eligibility or FS allotments. All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification. FoodShare Handbook, § 6.1.3.3; 7 CFR 273.12(c)(1).

In this case, the Petitioner reported to the agency on April 25, 2014 that her UC benefits had ended on March 17, 2014. The agency was able to verify the accuracy of the report and process the change. Per the FS Handbook, the change was effective May 1, 2014.

The Petitioner testified at the hearing that she believed she reported the change to the agency in March. The agency records indicate that the Petitioner did contact the agency on March 14, 2014 regarding her pay at [REDACTED]. There is no evidence that she contacted the agency about UC benefits ending until April 25, 2014.

Based on the evidence, I conclude that the agency properly issued FS benefits to the Petitioner in the amount of \$104 for April, 2014 and properly issued a supplement to the Petitioner for May 1, 2014 based on her reported change in UC benefits on April 25, 2014.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits for April, 2014.

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

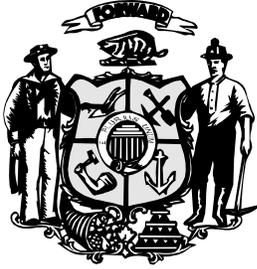
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

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 25th day of June, 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 June 25, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability