



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/157639

PRELIMINARY RECITALS

Pursuant to a petition filed May 15, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on June 04, 2014.

The issue for determination is whether it was correct to reduce petitioner's FS from \$176 to \$138 for April 2014 and from \$138 to \$30 for May 2014.

There appeared at that time via telephone 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: Katherine May, HSPC Senior
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

OTHER PERSON PRESENT:

[REDACTED] [REDACTED], mother of petitioner's children

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County, Wisconsin.
2. On January 16, 2014 petitioner reported to MiLES on an FS application that he was homeless.
3. Effective April 1, 2014 petitioner's FS was reduced from \$176 per month to \$138 per month due to an increase in income; the increase in income was due to the fact that petitioner began receiving \$83.78 per month in State of Wisconsin Supplemental Security Income ["SSI"].
4. Effective May 1, 2014 petitioner's FS was reduced from \$138 per month to \$30 per month due to another increase in income; the additional increase in income was due to the fact that petitioner's federal SSI increased from \$480.67 per month to \$721 per month.
5. On May 15, 2014 petitioner reported to MiLES that he was no longer homeless and had a rental obligation of \$650 (with heat included); this information was used to calculate his June 2014 FS.

DISCUSSION

The amount of a person's monthly FS allotment depends, in part, on the person's income: in general, the higher the income the lower the allotment. 7 C.F.R. § 273.10 (2014); *FoodShare Wisconsin Handbook* ["FWH"] 4.3.1 & 7.1.1. When calculating an FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2014); FWH 4.3.2. For purposes of FS *income* includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2014); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction¹, dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction²; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2014); FWH 4.6.1.

Petitioner argues that he reported in January 2014 that he was no longer homeless, that he had a rent obligation, and that his rent obligation should have been used when calculating his April 2014 and May 2014 monthly FS allotment.

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, decreases in income, 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. FWH 6.1.3.3.; See also, 7 C.F.R. §§ 273.12(c)(1)(i) & (ii) (2014). On January 16, 2014 petitioner reported to MiLES on an FS

¹ The excess medical deduction is only for members of the FS household who are elderly, blind, or disabled. Medical expenses incurred by a member of the FS household who is not elderly, blind, or disabled do not qualify for the excess medical deduction. 7 C.F.R. § 273.9(d)(3)intro. (2014); FWH 4.6.4. Further, the excess medical deduction is only for that portion of medical expenses that is in excess of \$35.00 per month. 7 C.F.R. § 273.9(d)(3)intro. (2014); FWH 4.6.4. Medical expenses for previously acquired charges that have not yet been paid, as well as current payments, are allowed. Medical expense payments made during the certification period are allowable. However, medical expenses paid prior to the certification period are not allowable. FWH 4.6.4.1.

² Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2014); FWH 4.6.7.1. When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2014); FWH 4.6.7.2. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2014); FWH 4.6.7.1.

application that he was homeless. Then preponderance of the evidence in the record of this matter is that it was not until May 15, 2014 that petitioner reported to MiLES that he was no longer homeless and had a rental obligation of \$650. Therefore, that information would be used to calculate his FS allotment for June 2014 -- but not for April 2014 or May 2014.

CONCLUSIONS OF LAW

For the reason discussed above, it was correct to reduce petitioner’s FS from \$176 to \$138 for April 2014 and from \$138 to \$30 for May 2014.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 25th day of June, 2014

\sSean P. Maloney
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