



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/157658

PRELIMINARY RECITALS

Pursuant to a petition filed May 13, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 04, 2014, at Appleton, Wisconsin.

The issue for determination is whether petitioner's FS allotment was properly reduced.

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: Nicole Godin

Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. Petitioner resides in a FS household of four. Through April 30, 2014, petitioner received \$572 monthly FS based upon \$838.26 gross unearned income.

3. In March, 2014, petitioner's household began receiving earned income, which was properly reported to the respondent. When the additional income was budgeted, FS decreased to \$47.00, effective May 1, 2014, based upon gross monthly income of \$2,446.38.

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 currently is \$163 per month for households with four people. 7 C.F.R. §273.9(d)(1); FS Handbook, § 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); FS Handbook, § 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); FS Handbook, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, § 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); FS Handbook, § 4.6.7.

Beginning September 1, 1997, the Department began to budget all income prospectively for determining eligibility. FS Handbook, §§ 4.1.1 and 8.3.4.3. The policy requires agency workers to determine monthly income, in situations where a recipient is paid bi-weekly, by multiplying anticipated weekly wages by 2.15.

Petitioner contested the determination of her monthly FS allotment based upon the very substantial decrease as a result of the budgeting of the additional household income. Based upon the petitioner's household earned income plus the household child support received, petitioner's net income was \$1,965.18, as seen in the budget calculation provided at the hearing. A household of four with that net income is entitled to \$42.00 FS. FS Handbook, § 8.1.2.

I conclude that the county correctly determined FS effective May 1, 2014. If income decreases petitioner should report the change.

CONCLUSIONS OF LAW

The county correctly determined petitioner's May, 2014 FS after her household began receiving additional income.

NOW, 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 1st day of July, 2014.

\sPeter McCombs
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 July 1, 2014.

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