



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/157696

PRELIMINARY RECITALS

Pursuant to a petition filed May 19, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on June 12, 2014, by telephone.

The issue for determination is whether the agency correctly removed petitioner's rent expense when petitioner did not verify an increase.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner receives FS for a four-person household. In April, 2014 she received \$632 in FS, which is the maximum amount for her household size. On April 9, 2014, petitioner filed a six-month report form and reported to the agency that she had a new rent expense of \$825 per month, and increase of \$100.

3. On April 10 the agency sent petitioner a notice requesting verification of her rent expense with a due date of April 21, 2014.
4. Petitioner did not provide verification or otherwise contact the agency by the due date. The agency removed the rent expense as unverified. On April 23, 2014, the agency sent petitioner a notice informing her that FS would be \$496 for May. The notice did not say why the amount was lower than in previous months, and it noted that she paid \$825 per month rent.
5. Petitioner filed a rent receipt showing the \$825 rent on May 19, 2014. The agency budgeted the rent for June benefits, resulting in an increase back to \$632. The agency did not supplement May FS.

DISCUSSION

If a person reports a change that will result in increased FS, the general rule is that the increase will take place in the month after the change is reported. 7 C.F.R. §273.12(c)(1). The FS Handbook, Appendix. 6.1.3.3, requires:

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.

The FS rules require changes to be made in the month after the change is reported, not the month that the change occurs.

In this case petitioner reported a \$100 increase in rent. She failed to verify the increase. The result should have been that the *change* would not be implemented for May. I can find no authority for entirely removing the rent expense from the budget. Furthermore, the notice issued for May FS gave no indication whatsoever why FS decreased. From the notice petitioner would have thought that the \$825 in rent *was* being budgeted.

I conclude that the agency erred by failing to issue petitioner the full \$632 in FS for June. As it turned out the increase in rent made no difference on petitioner's FS allotment. She received the maximum when her rent was \$725, and she received the same amount after the rent increased to \$825. When petitioner failed to verify the increase in rent, the correct action was to leave the old amount in, not to remove the rent expense completely.

CONCLUSIONS OF LAW

The agency erred by removing petitioner's rent expense from her FS budget because she did not verify an increase in her rent; the correct action was to leave the old rent expense in the budget until the new rent was verified.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to issue petitioner a \$136 FS supplement for the month of May, 2014 within 10 days of this decision to bring her total for the month back up to the maximum \$632 for a four-person household.

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 19th day of June, 2014

\sBrian C. Schneider
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 19, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability