



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/157865

PRELIMINARY RECITALS

Pursuant to a petition filed May 22, 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 telephonic hearing was held on July 16, 2014, at Milwaukee, Wisconsin. At the request of the parties, the record was held open for the petitioner to submit to MES by August 6, 2014 documentation of his medical expenses from his June 14, 2014 heart surgery and all other medical expenses related to his heart attacks as medical expense deductions. Milwaukee Enrollment Services was instructed to review the petitioner's medical expense bills, determine petitioner's medical expense deduction, and send a new notice of decision to the petitioner by August 16, 2014 explaining in detail the re-calculation of petitioner's FS benefits for a household of one retroactive to June 1, 2014.

The issue for determination is whether Milwaukee Enrollment Services met its burden of proof to establish that it correctly and accurately reduced the petitioner's FoodShare (FS) benefits from \$189 to \$15 effective June 1, 2014, due to an alleged increase in earned income from new employment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Simone Johnson, IM advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 58 year old resident of Milwaukee County.
2. The petitioner receives FoodShare (FS) benefits for a household of one.
3. Milwaukee Enrollment Services (MES) sent a May 12, 2014 Notice of Decision to the petitioner stating that his FS benefits would be reduced from \$189 to \$15, due to an alleged increase in earned income from his new employment at [REDACTED], Inc. See Exhibit 2.
4. Prior to June 1, 2014, petitioner suffered heart attacks.
5. Petitioner underwent heart surgery on June 14, 2014.
6. The petitioner has outstanding medical bills of about \$69,000 according to petitioner during the July 16, 2014 hearing.
7. During the July 16, 2014 hearing, the parties agreed to the following: a) petitioner to submit to Ms. Johnson at MES by August 6, 2014 documentation of his medical expenses from his June 14, 2014 heart surgery and all other medical expenses related to his heart attacks as medical expense deductions; b) Milwaukee Enrollment Services was instructed to review the petitioner's medical expense bills and determine petitioner's medical expense deduction; and c) MES will send a new notice of decision to the petitioner by August 16, 2014 explaining in detail the re-calculation of petitioner's FS benefits for a household of one retroactive to June 1, 2014. Petitioner agreed that if he believes the new notice of decision issued by August 16, 2014 by MES is incorrect, then he must file a new appeal to DHA and attach a copy of that new notice to his appeal letter.
8. There was insufficient reliable evidence presented during the hearing or while the record was held open to determine whether Milwaukee Enrollment Services correctly and accurately reduced the petitioner's FoodShare (FS) benefits from \$189 to \$15 effective June 1, 2014 for a FS household of one.

CONCLUSIONS OF LAW

Based upon the above findings of fact, both parties agreed there was insufficient reliable evidence presented during the hearing to determine whether Milwaukee Enrollment Services correctly and accurately reduced the petitioner's FoodShare (FS) benefits from \$189 to \$15 effective June 1, 2014 for a FS household of one. As a result, during the hearing, Milwaukee Enrollment Services did not meet its burden of proof to establish that it correctly and accurately reduced the petitioner's FoodShare (FS) benefits from \$189 to \$15 effective June 1, 2014, due to an alleged increase in earned income from new employment. Both parties stipulated to follow the agreement set forth in Finding of Fact #7 above.

THEREFORE, it is**ORDERED**

The matter is remanded to Milwaukee Enrollment Services (MES) and petitioner with the following instructions: a) petitioner will submit to Ms. Johnson at MES by August 6, 2014 documentation of his medical expenses from his June 14, 2014 heart surgery and all other medical expenses related to his heart attacks as medical expense deductions; b) Milwaukee Enrollment Services will review the petitioner's medical expense bills and determine petitioner's medical expense deduction; and c) MES will send a new notice of decision to the petitioner by August 16, 2014 explaining in detail the re-calculation of petitioner's FS benefits for a household of one retroactive to June 1, 2014. Petitioner agreed that if he believes the new notice of decision issued by August 16, 2014 by MES is incorrect, then he must file a new appeal to DHA and attach a copy of that new notice to his appeal letter.

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 12th day of August, 2014

\sGary M. Wolkstein
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 August 12, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability