



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/157918

PRELIMINARY RECITALS

Pursuant to a petition filed May 23, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on June 17, 2014, at Janesville, Wisconsin. At the request of the petitioner, the record was held open to allow the petitioner time to submit additional information; employment information from petitioner's employer was received and entered into the record as Exhibit 7.

The issue for determination is whether the respondent correctly reduced petitioner's FS benefits.

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: Lynette Scharine
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Rock County.
2. Petitioner filed a Six Month Report Form on February 3, 2014, wherein she reported employment information. Petitioner submitted three pay stubs, which were accepted by the respondent for income calculation purposes at that time. Exhibit 2.

3. Income verifications received from petitioner's employer subsequently indicated income requiring an adjustment to her FS benefits; on May 15, 2014 the county agency issued a notice of decision informing petitioner her FS would be reduced to \$15 effective June 1, 2014. Exhibit 5.
4. Petitioner appealed the reduction of FS benefits on May 23, 2014. Exhibit 1.

### **DISCUSSION**

Prospective budgeting is the determination of one month's FS benefits based on the agency's best estimate of income and circumstances that will exist in that month. All FS households are required to be tested using prospective budgeting. Retrospective budgeting (testing eligibility based upon the household's income and circumstances existent two months prior) is no longer used by the Department.

Reconciliation at a later date using actual income figures is no longer required to be performed by county agencies under the FS Program. Rather, the agency is required to re-determine FS after reported changes affecting benefits, effective the first benefit month following redetermination. Such redeterminations may result in supplemental FS being issued, or overpayment determinations.

In determining the amount of FS to be issued each month, the county must budget all income of the FS household. 7 C.F.R. §273.9(b). From the gross household income, certain deductions are allowed: (1) standard deduction, 7 C.F.R. §273.9(d)(1); (2) earned income deduction - which equals 20% of the household's total earned income, 7 C.F.R. §273.9(d)(2); (3) medical expense deduction - for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 C.F.R. §273.9(d)(3); (4) dependent care deduction for child care expenses, 7 C.F.R. §273.9(d)(4); and (5) shelter expenses deduction - 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).

While the petitioner asserted the information submitted by her employer represented abnormal hours, she has not established an error on the part of the respondent. Furthermore, petitioner's employer's information does not demonstrate substantively fluctuating employment hours over the last several months. Exhibit 7. The respondent testified that petitioner had indicated that she was working 18-30 hours, and the employer-submitted documentation substantiated that. See, Exhibit 7. Based upon the record before me, I find no error on the part of the respondent in calculating petitioner's prospective income.

As petitioner's income may fluctuate, petitioner should review the calculation page at the end of any notice of decision to determine whether the monthly income utilized by the county agency appears correct. If it does not, she should immediately contact the county for an explanation. The petitioner additionally testified that her employment would be ending at the end of June; obviously any change in her employment situation should be immediately reported to the respondent. The petitioner, of course, may file for a fair hearing if she does not agree with any future reductions.

### **CONCLUSIONS OF LAW**

That petitioner has not substantiated any error on the part of the respondent in budgeting petitioner's income-

**NOW, THEREFORE, it is**

**ORDERED**

That petitioner's appeal be 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 21st day of July, 2014.

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\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 21, 2014.

Rock County Department of Social Services  
Division of Health Care Access and Accountability