



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/157967

PRELIMINARY RECITALS

Pursuant to a petition filed May 28, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 17, 2014, at Racine, Wisconsin. The record was held open post-hearing for 8 days to allow the Petitioner to submit evidence of medical expenses to the agency. On June 25, 2014, the agency submitted its revised FS calculations based on the Petitioner’s medical expenses. The record was closed on June 25, 2014.

The issue for determination is whether the agency properly determined the 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: Rhonda Kraemer
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Racine County.
2. On May 19, 2014, the Petitioner completed a FS renewal.

3. On May 27, 2014, the agency issued a Notice of Decision informing the Petitioner that his FS benefits would be reduced to \$29/month effective July 1, 2014. The reduction was due to a change in the utility standard policy and a decrease in medical expenses.
4. Petitioner has unearned income of \$792/month. His rent is \$450/month. He has a Medicare premium of \$104.90/month. He has a phone expense of \$30/month. He has additional medical expenses of \$268.43/month.
5. On June 23, 2014, the agency issued a Notice of Decision informing the Petitioner that his FS benefits would increase to \$150/month effective August 1, 2014. The agency also issued a supplement of \$121 to the Petitioner for July, 2014.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$152 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 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); FSH, § 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); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 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); FSH, § 4.6.7.

On April 28, 2014, a change was made to the standard utility allowance/deduction available to household receiving FS benefits. See DHS Operations Memo 14-16. Households that have received a payment from the Wisconsin Housing Energy Assistance Program (WHEAP) in the previous 12 months receive the full Housing Standard Utility Allowance (HSUA) of \$450/month. Households that pay two or more non-heat qualifying utility expenses (phone, water, sewer, electric, cooking fuel, or trash) receive a Limited Utility Allowance (LUA) of \$313/month. Households that pay only a non-heat electric bill receive an Electric Utility Allowance (EUA) of \$153/month. Household that pay only water, sewer, septic tank installation/maintenance or wastewater treatment bills receive a Water and Sewer Utility Allowance (WUA) of \$80/month. Household that pay only a cooking fuel expense receive a Fuel Utility Allowance (FUA) of \$32/month. Households that pay only a telephone expense, including cell phones, receive a Phone Utility Allowance (PUA) of \$30/month. Households that pay only a trash or garbage bill receive a Garbage and Trash Utility Allowance (TUA) of \$18/month.

In this case, when the Petitioner completed his renewal on May 19, 2014, the agency was required to revise the utility allowance to give the Petitioner the PUA of \$30/month. His utility bills are in the landlord's name and part of his rent expense so an additional allowance is not given. At the hearing, the Petitioner testified that he has more monthly medical expenses that the agency did not budget. The Petitioner was advised that he needed to submit his medical bills to the agency to determine if he is eligible for additional allowances. The record was held open for the Petitioner to present documentation to the agency. The Petitioner did submit evidence of medical expenses and the agency revised its determination, finding that the Petitioner is eligible for \$150/month in FS benefits.

I have reviewed all of the agency actions in determining the Petitioner's FS benefits in this matter. I conclude that the agency acted properly based on the information it had at the time it made the determination in May and in June. The most recent determination that the Petitioner is eligible for \$150/month in FS benefits is proper based on the information submitted. The Petitioner is advised that any increase in medical expenses or shelter expenses should be reported to the agency when those changes occur so that the agency can review his FS allotment.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits.

THEREFORE, it is ORDERED

That the Petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 23rd day of July, 2014

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 23, 2014.

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