



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158037

PRELIMINARY RECITALS

Pursuant to a petition filed May 30, 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 hearing was held on June 24, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Service correctly determined the Petitioner’s Foodshare allotment.

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: Jose Silvestre, Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. On May 22, 2014, the agency sent the Petitioner a notice indicating that her FoodShare benefits would be decreasing from \$251.00 per month to \$101.00 per month, effective July 1, 2014. (Exhibit 5)

3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 29, 2014. (Exhibit 1)
4. The Petitioner's gross income totaled \$1,862.00 per month. (Testimony of Petitioner; Exhibit 6; Exhibit 7)
5. Petitioner's assistance group size is 2 and includes the Petitioner and her 17 year-old daughter. (Testimony of Petitioner; Testimony of Mr. Silvestre)
6. Petitioner and her daughter both receive Social Security Disability income and as such, are considered disabled for purposes of receiving FoodShare.
7. Petitioner's assistance group used to include her 22 year-old daughter, but no longer does so, because that daughter is a full time college student. (Testimony of Petitioner; Testimony of Mr. Silvestre; See also FoodShare Wisconsin Handbook §3.15.1)
8. Petitioner pays \$1,295.63 for her mortgage and has heating/utility expenses. (Exhibit 6)

DISCUSSION

The Petitioner did not dispute the agency's calculation of her gross income as \$1,862.00 per month, nor did she dispute the agency's calculation of her net income, which resulted in the \$101 per month allotment. Reviewing the budget print out, I can find no error in the agency's calculation of Petitioner's FoodShare allotment as \$101 effective July 2014. (See Exhibit 8)

At the hearing, the Petitioner stated that she filed an appeal because the \$101.00 FoodShare allotment is simply not enough of a supplement to feed her daughter and herself.

The Petitioner testified that the medications that her daughter takes to control her bi-polar disorder cause her daughter to have an increased appetite. As such, the Petitioner needs more income to cover her grocery bill. However, the Petitioner testified that her daughter does not have any prescription for nutritional supplements.

Regrettably, there are no provisions in the FoodShare Wisconsin Handbook (FSH) that allow an increase in FoodShare benefits to cover the cost of special dietary needs. On the contrary, FSH §4.6.4.2 specifically states that expenses related to special diets, whether or not the diet is related to a medical condition, are not allowed as a deduction when calculating income/FoodShare allotments.

Based upon the foregoing it is found that the agency correctly determined the Petitioner's FoodShare allotment effective July 1, 2014.

The Petitioner should note that if she or her daughter accumulates out-of-pocket medical expenses, the Petitioner should retain records of those expenses and report them to the agency, because if those out-of-pocket medical expenses are allowable, they might increase the Petitioner's Foodshare allotment.

CONCLUSIONS OF LAW

The agency correctly determined the Petitioner's FoodShare allotment effective July 1, 2014.

THEREFORE, it is

ORDERED

That the petition 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 25th day of June, 2014.

\sMayumi M. Ishii
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 25, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability