



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158044

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 or not the county agency was correct in reducing the petitioner's FS benefit effective June 1, 2014 and eliminating the FS benefit effective July 1, 2014.

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 Silverstre
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. The petitioner's household size is three.
3. Between April 1, 2014 and June 1, 2014 the petitioner received FS benefits in the amount of \$81 per month. (Exhibit 6 and Exhibit 7).

4. Effective June 1, 2014 the petitioner’s FS benefits were reduced from \$81 per month to \$50 per month. (Exhibit 7). This decrease was due to a decrease in the petitioner’s medical expenses. (Exhibit 6 and Exhibit 7). Effective June 1, 2014 the petitioner was no longer responsible for a monthly Medicare premium of \$104.90 due to Medicaid. (testimony of Jose Silvestre and [REDACTED]).
5. On June 6, 2014 the Department sent the petitioner a notice stating that effective July 1, 2014 the petitioner will no longer receive any FS benefit. (Exhibit 12). This elimination of FS benefit is due to an increase in the petitioner’s daughter’s social security income. (Exhibit 9). Effective July 1, 2014 the petitioner’s daughter, [REDACTED]’s social security income will increase from \$182 to \$361 per month. (Exhibit 9).

DISCUSSION

The County correctly calculated the petitioner’s FS benefits for April, May, June, and July 2014. The petitioner did not contest the County’s calculations, but rather had a hearing to “plead her case” that her monthly FS benefits were not enough to properly feed her diabetic child and the remainder of her household. There are no provisions in the FoodShare Wisconsin Handbook (FSH) that allow an increase in FoodShare benefits for 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. 7 C.F.R. §273.9(d)(3).

In calculating the petitioner’s FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department’s *FS Wisconsin Handbook*. The federal rule requires that the county start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a case with one to three persons is currently set at \$152, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including an earned income deduction, an excess medical deduction, and a dependent care deduction. 7 C.F.R. §273.9(d)(3). An excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii).

Following these rules the petitioner’s FS benefits calculations effective June 1, 2014 were as follows. Based on an \$810 shelter cost plus the \$450 standard utility expense, the petitioner’s shelter costs totaled \$1,260.00. This exceeded half of the adjusted income (\$916.57), so the excess shelter cost of \$343.43 was deducted in the allotment calculation. In addition, the petitioner received an earned income deduction of \$98.09.

Thus, the June 2014 allotment calculation correctly looked like this:

Gross income	2083.24
Minus Earned Inc. Deduction	-98.09
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-152.00</u>
Adjusted Income	1,833.15
Minus Shelter Deduction	<u>-343.43</u>
Net Income	1,489.72

The correct allotment for a household of three with net income of \$1,489.72 was \$50.00 in June 2014. *FS Wisconsin Handbook*, 8.1.2, p.4. The petitioner did not dispute these calculations nor the amounts used in the calculations.

Following the same rules, the petitioner’s FS benefits calculations effective July 1, 2014 were as follows. The calculations effective July 1, 2014 were identical with the exception of the gross income increase to \$2,288.24. The shelter costs still totaled \$1,260.00, which still exceeded half of the adjusted income (1,019.07), making the excess shelter cost of \$240.93. This amount was deducted in the allotment calculation as follows:

Gross income	2,288.24
Minus Earned Inc. Deduction	-98.09
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-152.00</u>
Adjusted Income	2,038.15
Minus Shelter Deduction	<u>-240.93</u>
Net Income	1,797.22

The net income limit for a household of three is \$1,628.00. *FS Wisconsin Handbook*, 8.1.1. \$1,797.00 is over this limit making the petitioner ineligible for FS benefit effective July 1, 2014. The petitioner did not dispute these calculations nor the amounts used in these calculations.

CONCLUSIONS OF LAW

The agency correctly determined the Petitioner’s FS benefits.

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 1st day of July, 2014

\sCorinne Balter
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 1, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability