



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/158282

PRELIMINARY RECITALS

Pursuant to a petition filed June 11, 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 July 15, 2014, at Milwaukee, Wisconsin.

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:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Janell Roundtree
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On May 12, 2014, petitioner was notified by the respondent that she needed to complete her FS renewal by June 30, 2014.
3. On May 27, 2014, petitioner contacted the respondent, and completed her FS renewal.

4. The respondent reviewed petitioner's FS renewal and determined that petitioner's FS would decrease effective July 1, 2014, due to petitioner no longer receiving the Heating Standard Utility Allowance.

DISCUSSION

On April 18, 2014, a change in FS policy was announced regarding the Heating Standard Utility Allowance (HSUA). Households that have not received Wisconsin Home Energy Assistance Program benefits will now be budgeted for utility obligations based upon the amount that they actually pay. This change is applied to all FS renewals processed on or after April 28, 2014, for a recertification period starting June 1, 2014. See, OPS Memo 14-16.

The petitioner's FS budget prior to July, 2014, reflected a utility deduction of \$450.00, and shelter costs of \$237.75. As of July 1, 2014, her budget reflected no utility deduction, and her shelter costs lowered to \$205.00. As a result, petitioner's FS allotment dropped from \$93.00 to \$15.00. See, Exhibit 6.

At hearing the respondent testified that the current budget did not contain any utility deduction because the petitioner had reported that her utilities were included in her rent. The petitioner testified that her utilities are not, in fact, included in her rent. WE Energies bills were submitted corroborating the petitioner's contention. See, Exhibit 8. When questioned regarding the seemingly illogical lower shelter cost in conjunction with utilities being included in that shelter cost, the respondent conceded that it had never requested utilities information from the petitioner. The respondent testified that the petitioner should have been asked about this.

I will remand this matter to the respondent to review petitioner's utility expenses, recalculate petitioner's FS budget, and re-determine FS allotment.

CONCLUSIONS OF LAW

The respondent incorrectly reduced petitioner's FS benefits based upon an erroneous determination that petitioner's utility costs were included in her shelter cost.

THEREFORE, it is

ORDERED

That this matter shall be remanded to the respondent to review petitioner's utility expenses, recalculate petitioner's FS budget, and re-determine FS allotment. All actions required by this Order shall be completed within 10 days following issuance of this decision.

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.

\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.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability