



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158326

PRELIMINARY RECITALS

Pursuant to a petition filed June 14, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on August 6, 2014, by telephone. A hearing set for July 15, 2014 was rescheduled at the petitioner's request.

The issue for determination is whether the county correctly determined petitioner's FS when she reported a new address.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Katherine May
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. Until the agency action petitioner received the \$189 maximum monthly FS for one person. The amount was calculated using petitioner's income of \$812.90 but with a huge shelter deduction based upon shelter costs of \$2,675 per month that left net income as \$0.
3. On May 29 petitioner completed a renewal showing that her monthly rent was \$400 and that she paid \$116.97 in insurance. When those figures were entered instead of the large shelter expense

petitioner's net income increased to \$518.53. By a notice dated May 30, 2014, the agency informed petitioner that FS would decrease to \$33 effective July 1, 2014 due to the changes.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt 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. 7 C.F.R. §273.9(d)(1); FS Handbook, Appendix 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); FS Handbook, App. 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); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 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); FS Handbook, App. 4.6.7. The maximum shelter deduction is \$459 unless the household includes an elderly or disabled individual; in those cases there is no shelter cap. Handbook, App. 8.1.3. and 4.6.7.1.

As discussed during the hearing, the reason petitioner received the maximum amount of FS was due to an entry that her monthly shelter cost was \$2,675 plus utilities. Because petitioner is disabled there was no maximum shelter deduction, so her shelter deduction was over \$2,800, basically negating her income entirely. When the correct figures were entered petitioner's FS decreased to \$33. See Handbook, App. 8.1.2; a single person with \$518 net income is entitled to \$33 FS. I have checked the calculations and they are correct.

Petitioner feels that the reduction was too drastic. While I acknowledge that it was a major change, I have no authority to order a higher FS allotment than the one calculated. I must conclude that the reduction was correct.

During the hearing petitioner pointed out that her social security decreased, and Ms. May said that the change would be made for August FS. There also was an increase in shelter costs, so supplemental FS were issued.

CONCLUSIONS OF LAW

The agency correctly reduced petitioner's FS when her correct shelter expenses were entered into the calculation beginning with July, 2014 FS.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 8th day of August, 2014

\sBrian C. Schneider
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 August 8, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability