



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158650

PRELIMINARY RECITALS

Pursuant to a petition filed June 26, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Fond du Lac County Dept. of Social Services in regard to FoodShare benefits (FS), a hearing was held on August 27, 2014, by telephone. A hearing set for July 22, 2014 was rescheduled at the petitioner's request.

The issue for determination is whether petitioner's income and expenses entitle him to more than \$15 per month in FS.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Deborah Bohlman
Fond du Lac County Dept. of Social Services
87 Vincent Street
Fond du Lac, WI 54935-4595

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Fond du Lac County.
2. Petitioner applied for FS as a one-person household on May 1, 2014. He reported working at . The county verified that petitioner earned \$1,023.25 per month from wages and tips.

3. The county worker entered the income incorrectly to be \$1,586 per month. Using that income, the county determined that petitioner was entitled to \$15 per month in FS. A notice was sent to petitioner on June 3, 2014 explaining the determination.
4. Petitioner filed this appeal after noting that the income figure used by the county was too high. After the appeal was filed, the county re-entered the correct income, but the result did not change, and it found that petitioner was entitled to \$15 per month FS even at the lower income.
5. Petitioner pays \$291 per month for rent, with utilities included. He has a telephone although he did not report it on his application.

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.

It is undisputed that the county used wrong income when the FS were calculated first. However, the county says that even using correct income the result would not change.

If petitioner's income is \$1,023.25 per month, as shown in the July 7, 2014 case summary, his net income is \$666.60. A person with that net income is entitled to \$15 FS. Handbook, App. 8.1.2. Net income must be lower than \$576 for a one-person household to receive even one dollar more in FS per month. I checked further to determine if the result would change if petitioner's telephone utility was included. A person who has only telephone service gets a \$30 allowance in the shelter deduction calculation. See Handbook, App. 8.1.3. If \$30 is added to petitioner's \$291 rent, the \$321 result still is less than one-half of the \$666 net income, so petitioner still would get no shelter deduction, and net income remains \$666.60.

I conclude, therefore, that although the county initially used inflated income in determining petitioner's FS allotment, the allotment was correct. Using correct income the result does not change.

CONCLUSIONS OF LAW

Petitioner is entitled to \$15 per month FS based upon monthly income of \$1,023.

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 28th day of August, 2014

\sBrian C. Schneider
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 August 28, 2014.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability