



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158851

PRELIMINARY RECITALS

Pursuant to a petition filed July 07, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regards to a reduction in FoodShare benefits (FS), a telephone hearing was held on July 29, 2014, at Milwaukee, Wisconsin. At the request of the petitioner, the record was held open for 10 days for the submission of additional information.

The issue for determination is whether the Department correctly reduced the petitioner's FS from \$199 to \$182 in August, 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: Belinda Bridges, HSPC
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County. He is the casehead of a one person FS group that was receiving \$199 of FS in July, 2014.
2. On June 27, 2014, the agency issued a Notice to the petitioner informing him that his FS would be decreased, effective August 1, 2014, from \$199 to \$182, because he had more countable income.

3. In computing the petitioner's August, 2014, FS allotment, the agency used a rental expense of \$450. See, Exhibit #1, attached Food Share Budget Screen for August, 2014. The agency also used gross income of \$766 per month in Social Security benefits. At the petitioner's last prior annual review in 2013, he was then receiving \$754 per month in Social Security benefits. The petitioner is a one person FS household, with a standard deduction of \$152, no employment or employment expenses, and no reported excess medical expenses exceeding \$35 per month. He was receiving an excess shelter expense deduction of \$593 based on rent of \$450 and a standard utility allowance of \$450 per month.
4. The petitioner's actual rental expense was verified by rent receipt during the open records period to be \$500 per month. See, Exhibit #5.

DISCUSSION

The agency properly computed all elements of the petitioner's FS, but a review of the evidence reveals that the petitioner's rent changed effective at least August 1, 2014, increasing from \$450 to \$500 per month. While it appears that the petitioner did not report this change prior to the hearing held on July 29, 2014, he has done so in the open records period and provide a rent receipt for August in this amount as well.

I can find no other error. Nor has the petitioner pointed to any other error. The matter will be remanded to the agency to review and re-determine the petitioner's eligibility for FS retroactive to August 1, 2014, using rent of \$500 instead of \$450.

CONCLUSIONS OF LAW

That the petitioner *may* be eligible for FS in an amount greater than \$182 per month, effective August 1, 2014, because his rent is \$500 and not \$450; the matter must be remanded for review and re-determination.

THEREFORE, it is

ORDERED

That the matter is remanded to the county agency with instructions to: review and re-determine the petitioner's eligibility for FS retroactive to August 1, 2014, using verified rent of \$500 per month; and issue all supplemental FS to which he was otherwise entitled, if any, after offset for FS already issued. These actions shall be completed within 10 days of the date 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 18th day of August, 2014

\sKenneth D. Duren, Assistant Administrator
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 18, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability