



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158982

PRELIMINARY RECITALS

Pursuant to a petition filed July 11, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dodge County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on August 13, 2014, by telephone.

The issue for determination is whether the county agency correctly discontinued the petitioner's FS case effective August 1, 2014.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



By: [Redacted] POA for finances
(and brother)

Respondent:

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

By: Cheryl Spreutels, ES Spec.
Dodge County Department of Human Services
143 E. Center Street
Juneau, WI 53039-1371

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Dodge County.
2. The petitioner had an ongoing FS case as a household of one person beginning in January 2014. In June 2014, she filed a required Six Month Report Form (SMRF). The SMRF indicated that the

petitioner was awaiting the commencement of long-term disability payments. On July 1, she verified that those payments had begun. The gross monthly amount of the payments is \$2,159.

3. On July 7, 2014, the Department issued written notice to the petitioner, advising that her FS would be discontinued effective August 1, 2014. The basis for discontinuance was excess income. The petitioner filed a hearing request, and aid has been continued pending issuance of a decision.
4. The petitioner has significant expenses which cannot be subtracted from income for FS purposes. Specifically, her monthly expenses include \$159.04 in federal income taxes, \$83.78 in state income taxes, a \$78.00 life insurance premium, a \$575.60 health insurance premium, credit card payments, and actual utility costs of \$650. Her home mortgages are an \$875.00 monthly liability.

DISCUSSION

The petitioner questions the discontinuance of her FS from August 2014, onward. The petitioner's gross income type and amount for August are not in dispute. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>.

The petitioner's gross income of \$2,159.00 was over the gross income limit for a household of one person of \$1,245.00 in August 2014. *FSWH*, 8.1.1.1. Her living expenses cannot, therefore, be considered. 7 C.F.R. 273.9(a). Thus, discontinuance of her case was correct.

CONCLUSIONS OF LAW

1. The Department correctly discontinued the petitioner's FS case, due to her income being over the program's gross income limit for a household of one person.

THEREFORE, it is

ORDERED

That the petition is 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 5th day of September, 2014

\sNancy J. Gagnon
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 September 5, 2014.

Dodge County Department of Human Services
Division of Health Care Access and Accountability