



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/159001

PRELIMINARY RECITALS

Pursuant to a petition filed July 10, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on August 18, 2014, at Janesville, Wisconsin.

The issue for determination is whether the agency correctly reduced petitioner's FoodShare allotment to \$49.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

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

By: Mary Donohue

Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Rock County.
2. Petitioner was an ongoing FS recipient. She completed a phone renewal on March 13, 2013 and reported her income. Verifications were also supplied shortly after.

3. In December 2013, the agency learned of wages at [REDACTED] [REDACTED] [REDACTED] that were not reported.
4. The agency received verification of employment at [REDACTED] [REDACTED] [REDACTED] in January 2014. The verification indicated employment since April 17, 2013. The agency pursued an overissuance investigation.
5. In June, the agency issued an overissuance notice for \$1,442.
6. On June 11, 2014, petitioner applied for medical assistance. As part of this application, she provided pay stubs. Pay stub from period ending May 3, 2014 reflected 45 hours worked at \$10.50 per hour. Pay stub from period ending May 17, 2014 indicated 60.75 hours worked at 10.50 per hour. Pay stub from period end date May 31, 2014 showed 71.75 hours at \$10.50.
7. The agency calculated petitioner's gross monthly income at \$1,341.54 for her one person group.
8. The agency reduced the FS allotment from \$168 to \$49.

DISCUSSION

At the time of hearing, while the agency quite competently represented itself with regard to the overissuance matter, the agency had not submitted the notice related to the allotment reduction to reflect the income or deductions it was counting. It also had not provided the FS budget to show the same, especially with regard to the utility deduction. The agency was unable to identify the change that caused the reduction especially given that the agency had previously budgeted the employer income from the employer verification in January 2014 at near the same number as the May pay stubs were reflecting. Essentially, the agency representatives were trying to figure this out by reading computer screens during the hearing. The agency's reasoning never became clear and the argument was not sufficient. Based on the record, I am not even certain when the new allotment took effect. The matter must be redetermined. If petitioner appeals the it would behoove the agency to come to the hearing with a more thorough understanding of the issue.

CONCLUSIONS OF LAW

The agency failed to meet its burden at hearing to show the correctness of the FS allotment reduction.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with instructions to redetermine the correct FS allotment to retroactive to the date of the change. If the \$49 allotment was incorrect and less than the correct amount for any given month the agency shall issue any appropriate supplement. New notice shall be issued to petitioner following the redetermination reflecting the correct allotment. New appeal rights must be provided with that new notice.

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 9th day of September, 2014

\sJohn P. Tedesco
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 September 9, 2014.

Rock County Department of Social Services
Division of Health Care Access and Accountability