



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/159034

PRELIMINARY RECITALS

Pursuant to a petition filed July 15, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on August 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly calculated Petitioner's monthly FoodShare (FS) benefits for July 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Pang Thao-Xiang
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner receives FS as a household size is 5.
3. Effective July 1, 2014 Petitioner's monthly FS benefits were reduced to \$297 from \$750.

4. This reduction was mainly due to Petitioner going back to work for 72 hours per bi-weekly pay period at a rate of pay of \$10 per hour. Previously Petitioner did not have any employment.
5. Petitioner’s countable gross income for July 2014 was \$2,319.97, which consisted of \$627.00 in W-2 payments, \$98.97 in child support payments, and \$1,548.00 from her employment.
6. Petitioner’s shelter costs were \$800.00 for July 2014.
7. Petitioner’s dependent care expenses were \$280.00 for July 2014.
8. In preparation for the hearing and at the hearing the agency learned that Petitioner received additional employment income, additional income in child support, and paid less in dependent care expenses, but more in utilities. Applying this information to Petitioner’s FS benefits calculation would result in a further deduction of her monthly FS benefits.

DISCUSSION

In calculating the petitioner’s FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department’s *FS Wisconsin Handbook*. The federal rule requires that the county start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 5 is \$191, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii).

Following these rules the petitioner’s FS benefits calculations effective July 1, 2014 were as follows. Petitioner’s gross income for July 2014 was \$2,319.97, which consisted of \$627.00 in W-2 payments, \$98.97 in child support payments, and \$1,548.00 from her employment as she was working 72 per bi-weekly pay period making \$10 per hour. From Petitioner’s gross income of \$2,319.97 the agency subtracted \$309 as an earned income deduction and the standard deduction amount of \$191 giving Petitioner an adjusted income of \$1,539.37. Petitioner then received an excess shelter deduction as her shelter expenses exceeding half of her adjusted income. Her reported rent was \$800. Half of her adjusted gross income was \$769.68. \$800.00 minus \$769.68 is \$30.32. Petitioner received an excess shelter deduction of \$30.32.

Thus, the July 2014 allotment calculation correctly looked like this:

Gross income	2319.97
Minus Earned Inc. Deduction	-309.00
Minus Excess Medical	-000.00
Minus Dependent Care	-280.00
Minus Standard Deduction	-191.00
Adjusted Income	1,539.37
Minus Shelter Deduction	<u>-30.32</u>
Net Income	1,509.05

The correct allotment for a household of five with net income of \$1,509.05 was \$297.00 in July 2014. *FS Wisconsin Handbook*, 8.1.2, p.4.

In preparation for the hearing the agency learned that Petitioner had another job in July 2014. Petitioner worked at another job 56 hours per bi-weekly pay period making \$14.65 per hour. This adds \$1,763.85 to

Petitioner's monthly gross income. In addition, the agency learned petitioner was paid \$385.08 in child support payments instead of the \$98.97 reported by Petitioner. Similarly the agency learned that Petitioner received a child care subsidy and her co-payment for that subsidy was only \$5.19, instead of the \$280 reported by Petitioner as a dependent care expense. Petitioner was also able to show that she was responsible for utilities creating a greater shelter deduction. Petitioner also stated that she was working less than 72 hours per bi-weekly pay period at her \$10 per hour job because she had to reduce her hours at that job to pick up more hours at her \$14.56 per hour job. Averaging both jobs, Petitioner was working more than 72 hours per bi-weekly pay period and making more than \$10 per hour. If this new information were applied to Petitioner's July FS benefits calculation, she would receive less in monthly FS benefits.

At the hearing Petitioner stated that she no longer works at the \$14.65 per hour job and that she no longer had any employment income. However, when specifically asked by the agency, Petitioner, stated that she still worked at her \$10 per hour job. She was unclear on the number of hours that she was working. This new information does not affect the agency's calculation of Petitioner's July 2014 FS benefits.

Petitioner stated that she properly and timely provided the agency all of her income and expenses. That may or may not be the case. I do not have to make that determination for the purposes of this hearing. The issue for this hearing is whether the agency properly determined Petitioner's FS benefits for July 2014 based upon the information available to the agency in June 2014 when they made that determination. It is ultimately up the agency to verify income and questionable items. If Petitioner reported additional income combined with fewer expenses that the agency never calculated in July 2014, then it only benefited the Petitioner.

CONCLUSIONS OF LAW

The agency correctly determined Petitioner's monthly FS benefit for July 2014 based upon the information available to them at that time. The agency will have to recalculate Petitioner's FS benefits going forward based upon the information they learned in preparation for the hearing and at the hearing.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

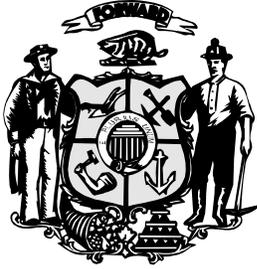
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 13th day of August, 2014

\sCorinne Balter
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 13, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability