



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/159102

PRELIMINARY RECITALS

Pursuant to a petition filed July 18, 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 13, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner's July 9, 2014 application for FoodShare (FS) benefits.

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: Katherine May
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's household size is 5.
3. The agency denied Petitioner's July 9, 2014 application for FS benefits because Petitioner's monthly household income was over the net income limit. Petitioner's monthly household

income is \$3,666.00 consisting of \$3,440.00 from her husband's employment and \$226.00 in kinship care benefits. Petitioner's shelter expenses are \$430.59 and she is responsible for all of the utilities.

4. Petitioner's net income is \$2,298.00.

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. In calculating gross income the agency multiplies weekly income by 4.3 because there are 52 weeks in a 12 month year. *FS Wisconsin Handbook*, 4.6.1.4. 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 the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

Petitioner's gross income was \$3,666.00 consisting of \$3,440.00 from her husband's employment and \$226.00 in kinship care benefits. Petitioner's husband made \$20 per hour working 40 hours per week giving him a weekly income of \$800. \$800 multiplied by 4.3 results in a gross monthly employment income of \$3440. Petitioner does not dispute that she receives kinship benefits in the amount of \$226.00. Petitioner's gross household income of \$3666.00 is under the gross household limit for a household of five.

In calculating Petitioner's eligibility the agency then subtracted the standard deduction of \$191 giving Petitioner an adjusted income of \$2,787.00. Petitioner did not qualify for an excess shelter deduction because her shelter costs of \$430.59 plus the standard utility of \$450 totaled \$880.59, which is less than half of Petitioner's adjusted income. Petitioner's adjusted income is \$2,787.00, half of that is \$1393.50, which is greater than \$880.59 making Petitioner ineligible for the shelter deduction. Petitioner is not eligible for any deductions, and therefore her monthly net adjusted income is the same as her adjusted income of \$2,787.00. The net income limit for FS for a family of 5 is \$2,298.00. *FS Wisconsin Handbook*, 8.1.1.2. Petitioner is ineligible for FS because even though she meets the gross income test, she is over the program net income limit.

Petitioner argues that she has many expenses related to her nephew who is placed in her home through a court order as the child was abused or neglected by his mother. She states that she has clothing, food, and gas expenses. She further states that she has the cost of maintaining their property as they own the dwelling. I find Petitioner's statements credible; however, as stated above the agency is only allowed to take a limited number of identified deductions. The additional expenses Petitioner discussed are not any of these limited identified deductions from the statute.

CONCLUSIONS OF LAW

Therefore, the agency correctly denied Petitioner's July 9, 2014 application for FS benefits.

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 25th 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 25, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability