



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/159886

PRELIMINARY RECITALS

Pursuant to a petition filed August 13, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Portage County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 02, 2014, at Stevens Point, Wisconsin.

The issue for determination is whether the respondent correctly determined petitioner's FS allotment effective August 1, 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: Lori Yenter

Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County.
2. Petitioner is an on-going FS recipient in a single person FS household.
3. Petitioner submitted a six-month report form, which indicated that his income had changed. His benefits were pended for income verification.

4. The respondent received income verification and calculated gross income for petitioner in the amount of \$1,271.18. Net, or counted, income was calculated to be \$847.42. When the respondent added the income to the case, FS were reduced to \$15 effective August 1, 2014. See, Exhibit 3.

DISCUSSION

When a change is reported for FS, the agency handles it differently depending on whether the change will result in an increase or a decrease in FS. 7 C.F.R. §273.12(c). If the change will result in a decrease in FS, the agency should issue a notice informing the client of the decrease effective the next possible month. 7 C.F.R. §273.12(c)(2)(i). The agency must then verify the change prior to the next recertification.

If a person reports a change that will result in increased FS, the general rule is that the increase will take place in the month after the change is reported. 7 C.F.R. §273.12(c)(1). The FS Handbook, Appendix. 6.1.3.3, requires:

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification.

The FS rules require changes to be made in the month after the change is reported, not the month that the change occurs.

In this case petitioner reported his income change as required, and the county changed FS for the following month based upon the report and verification. Petitioner argued that the county was aware the job was seasonal, and that while there have not yet been lay-offs, there have been many weeks where his hours were reduced. Petitioner offered testimony that his seasonal job has already begun winding down, though this assertion was not corroborated by any documentation.

While I can certainly empathize with the difficulty presented by working in a highly seasonal environment as the petitioner does, I can also empathize with the county agency's obligation to follow FS policy in such circumstances. I note that the county cannot assume that the job will end at a certain time, and it is incumbent upon the petitioner to ensure that the respondent has the most accurate income information available. Based upon my review of the record in this matter, I do not find that the petitioner has established any error on the part of the respondent in determining petitioner's FS allotment as of August 1, 2014. The respondent made its determination based upon the best information available to it at that time. Petitioner is advised that he should report any change in income as soon as possible, in order that the respondent can correctly determine his FS allotment.

CONCLUSIONS OF LAW

The petitioner has established any error on the part of the respondent in determining petitioner's FS allotment as of August 1, 2014.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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 10th day of October, 2014.

\sPeter McCombs
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 October 10, 2014.

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