



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/160570

PRELIMINARY RECITALS

Pursuant to a petition filed September 11, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Dane County Dept. of Human Services to deny FoodShare benefits (FS), a hearing was held on October 22, 2014, by telephone.

The issue for determination is whether petitioner's 2013 Tax Return Transcript is sufficient verification of his self-employment income.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Mary Pat Dilley
Dane County Dept. of Human Services
1819 Aberg Avenue
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner applied for FS on July 23, 2014 as part of a review of his BadgerCare Plus eligibility. He reported that his only income from 2012 through 2014 was from [REDACTED] from [REDACTED] and [REDACTED]. The county requested verification of his income. The due date was extended to August 25.

3. On August 25, 2014, petitioner provided a copy of his 2013 Tax Return Transcript. The transcript showed as income unemployment compensation and \$11,300 "other income."
4. The county denied FS because it was felt that the transcript was insufficient verification.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipients' nonexempt income. 7 C.F.R. §273.9(b). Treatment of self-employment income is described at 7 C.F.R. §273.11(a). Such income is annualized over a 12-month period, unless the income is intended to meet the household's needs over a shorter period. §273.11(a)(1)(i) and (iii). To determine monthly income, the agency must take yearly income, add back in depreciation, net loss carryovers, and personal expenses, and then divide by twelve. §273.11(a)(2) and (4). If the business has had a substantial change or if it has been operating less than one year, the agency shall use a system of anticipating income. §273.11(a)(1)(i) and (iv).

The county denied FS because of the conclusion that the tax transcript was insufficient verification. Of particular concern was that "other income" was not specified in particular. It was felt that the original copies of the tax returns would be better verification.

The Tax Return Transcript is, however, an exact recitation of what was reported on the tax return. Notably on petitioner's transcript is that no self-employment income is shown. Petitioner testified that he simply took his 1099 forms from [REDACTED] and [REDACTED], added them, and put the total down as other income. He claimed no self-employment expenses.

I will remand the matter to the county to process petitioner's application using the income showing on the transcript.

CONCLUSIONS OF LAW

Petitioner's Tax Return Transcript was sufficient verification of his 2013 self-employment income after he explained that all of the income was reported as "other income" with no expense deductions taken.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to re-process petitioner's July, 2014 FS application by accepting his 2013 Tax Return Transcript as verification of his self-employment income. The county shall do so and shall issue appropriate FS retroactive to the date of application within 10 days of this decision.

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 24th day of October, 2014

\sBrian C. Schneider
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 October 24, 2014.

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