



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redacted case name

DECISION

FOO/160738

PRELIMINARY RECITALS

Pursuant to a petition filed September 19, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Jefferson County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 03, 2014, at Jefferson, Wisconsin.

The issue for determination is whether petitioner's allotment was correctly reduced to \$142 after the agency realized it had budgeted excessive income.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redacted petitioner name

Respondent:

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

By: Sandy Torgerson
Jefferson County Department of Human Services
Workforce Development Center
874 Collins Rd.
Jefferson, WI 53549

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redacted) is a resident of Jefferson County.

2. Petitioner underwent a FS renewal in November 2013. Petitioner explained that her husband was self-employed and did not have tax return completed. The agency sent a self-employment verification document for petitioner to complete and submit.
3. The self-employment form was received by the agency on 12/23/14. It indicated income for October, November and December 2013 at \$2,400 of gross income. The agency incorrectly interpreted this to mean \$800 for each month.
4. Petitioner's husband's income was intended by petitioner to be reported at \$2,400 for each of those months.
5. Has the amount been budgeted as \$2,400 per month, the monthly FS allotment would have been \$137.
6. On June 4, 2014, petitioner submitted a self-employment form reflecting \$2,400 for the month of March.
7. On June 4, 2014, petitioner submitted a self-employment form reflecting \$2,400 for the month of April.
8. On June 4, 2014, petitioner submitted a self-employment form reflecting \$2,400 for the month of May.
9. Upon receiving the new income verifications, the agency realized that it had budgeted the income incorrectly since the previous renewal.
10. Petitioner received a FS allotment of \$569 from January 2014 through August 2014.
11. The allotment has now been changed to be \$142.
12. Petitioner appealed.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). That was not done in this case. The agency budgeted only a third of the husband's income.

In this case, the agency interpreted the income form to be reflecting a total income for the three months indicated by petitioner on the top of the form. Petitioner intended the form to be reflecting the income for *each* of the three months. It is not relevant whose fault the error was. It was clearly a miscommunication and petitioner received a substantially greater sum in FS than she should have been receiving. Petitioner conceded this fact at hearing. At this point, the reduction by the agency is simply correcting the allotment to be correct after the agency has now budgeted income correctly. Petitioner presented no argument that she should not receive the \$142 allotment.

CONCLUSIONS OF LAW

The agency did not err in determining that the FS allotment should be reduced.

THEREFORE, it is

ORDERED

That this appeal is 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 15th day of December, 2014

\sJohn P. Tedesco
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 December 15, 2014.

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