



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/161147

PRELIMINARY RECITALS

Pursuant to a petition filed October 07, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 30, 2014, at Sheboygan, Wisconsin.

The issue for determination is whether the agency correctly terminated Petitioner's FoodShare (FS) benefits effective October 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: Kris Schmidt

Sheboygan County Department of Human Services
3620 Wilgus Ave
[REDACTED]

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. Petitioner's household size is 4.
3. On September 15, 2014 Petitioner completed a renewal for FS benefits.

4. Petitioner's monthly gross income is \$2864.64 consisting of \$2,140.32 from Petitioner's employment and \$721 from a household member's SSI.
5. Petitioner's monthly rent is \$525.00. Petitioner is also responsible for all of her utilities.
6. The agency determined that Petitioner was no longer eligible for monthly FS benefits effective October 1, 2014. On September 24, 2014 the agency sent Petitioner a notice informing her that she was no longer eligible effective October 1, 2014.
7. On October 9, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.

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 4 is \$165, 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).

I have reviewed the agency's calculations in this case. The agency determined that Petitioner was not eligible for FS effective October 1, 2014. Petitioner meets the gross income test, however, she fails the net income test. After all of the allowed deductions, Petitioner's net income is \$2,268.26. The net income limit for a household of 4 is \$1,988.00. Petitioner exceeds this limit by approximately \$280. Petitioner's household income increased significantly when a household member began receiving SSI. This increase caused Petitioner's household to no longer be eligible for FS under the net income test. If Petitioner's income decreases or if her expenses increase causing her deductions to increase, and net income to decrease, she can reapply for FS benefits.

CONCLUSIONS OF LAW

The agency correctly determined that Petitioner was no longer eligible for FS effective October 1, 2014.

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 4th day of November, 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 November 4, 2014.

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