



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/161457

PRELIMINARY RECITALS

Pursuant to a petition filed October 22, 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 November 18, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly reduced Petitioner's monthly FoodShare (FS) benefit to \$16.00 effective November 1, 2014.

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: Pang Thao-Xiong
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. Petitioner's household size is one.
2. Petitioner applied for FoodShare (FS) benefits on September 9, 2014. Petitioner reported \$0 in monthly income. Petitioner had been working for [redacted] and had lost her job. She

reported that she would be receiving unemployment benefits, but she was not yet receiving money from unemployment.

3. On September 24, 2014 the agency sent Petitioner notice that she qualified for monthly FS benefits in the amount of \$194.00.
4. On October 11, 2014 the agency learned that Petitioner received \$355.00 in weekly unemployment benefits.
5. On October 13, 2014 the agency sent Petitioner notice that her monthly FS benefits would be reduced to \$16.00.
6. Petitioner's monthly gross income is \$1526.50 from unemployment. Petitioner pays a monthly mortgage in the amount of \$814, monthly insurance in the amount of \$70, and monthly property tax in the amount of \$267.33.
7. On October 24, 2014 the Division of Hearings and Appeals received Petitioner's Request for Fair Hearing.

DISCUSSION

In calculating 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. *FSWH*, 1.1.4. To calculate monthly gross income from weekly checks, the agency must multiply the weekly pay by 4.3. 7 C.F.R. §273.10(c)(2). If the agency only multiplied the weekly pay by four, there would be an additional four weeks of pay each year unaccounted for. This multiplier accounts for those additional four weekly paychecks. The agency then must deduct 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 1 is \$155, 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 correctly determined Petitioner's monthly FS benefits effective November 1, 2014. Petitioner disputed the agency's calculation of her monthly income. However, Petitioner's monthly gross income is \$1,526.50 (355 x 4.3 is 1526.50). Petitioner agreed that she received \$355 per week from unemployment, but disagreed with the 4.3 multiplier. The agency must comply with the federal regulations, which require they use the multiplier. Petitioner did not dispute her monthly shelter expenses. The agency correctly calculated Petitioner's monthly FS benefits in the amount of \$16.00. I note that this is a significant decrease from \$194.00. However, the agency previously had not included any income, and Petitioner is now receiving \$355 in weekly unemployment benefits, which is income for FS purposes.

CONCLUSIONS OF LAW

The agency correctly calculated Petitioner monthly FS benefits effective November 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 24th 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 24, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability