



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/161502

PRELIMINARY RECITALS

Pursuant to a petition filed October 23, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Winnebago County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 25, 2014, at Neenah, Wisconsin.

The issue for determination is whether the agency correctly reduced Petitioner’s monthly FS benefits 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: Leslie Fosters

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Winnebago County. Petitioner’s household size is 1.
2. Prior to November 1, 2014 Petitioner received \$32.00 in monthly FS benefits.

3. On September 25, 2014 the agency received returned mail with a new address.
4. On September 26, 2014 the agency sent Petitioner a notice stating that they needed his shelter expenses.
5. Petitioner never returned this notice or provided the information requested.
6. On October 13, 2014 the agency sent Petitioner a notice stating that his monthly FS benefits would decrease from \$32.00 to \$16.00 effective November 1, 2014. Because Petitioner had not provided his shelter expenses, Petitioner was no longer eligible to receive a shelter deduction.

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 1 is \$152, 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).

The agency must act on reported changes. *FS Wisconsin Handbook*, 6.1.1.2. Following the report of a change, the agency must request verification of that change as soon as possible. *Id.* at 6.1.3.1. Requests for verification must be made in writing. *Id.* at 1.2.1.2. The FS recipient is primarily responsible for providing verification. *Id.*

I have reviewed the agency's calculations in this case. The agency correctly determined Petitioner's monthly FS benefits effective November 1, 2014. Petitioner's monthly FS benefits decreased because the agency was previously budgeting shelter costs or rent. The agency received returned mail from Petitioner with a new address. The agency attempted to verify the new shelter costs, but Petitioner failed to respond to the agency's verification request. The agency then recalculated Petitioner's monthly FS benefits without any shelter costs. This caused a reduction in his monthly FS benefits. At the hearing Petitioner stated that he lives in subsidized housing, that he did not move, and that he pays rent. He also stated that his employment hours had decreased. Petitioner had not provided this information to the agency prior to the hearing. Petitioner said that his father would get his mail and should have taken care of this for him. Unfortunately that did not happen. If Petitioner reports those changes in November, then his FS benefits may increase for December, however, that is outside of the issue for this particular appeal.

CONCLUSIONS OF LAW

The agency correctly calculated Petitioner's 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 26th 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 26, 2014.

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