



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
Milwaukee, WI 53218

DECISION

FOO/161678

PRELIMINARY RECITALS

Pursuant to a petition filed October 31, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on November 25, 2014, by telephone.

The issue for determination is whether the agency correctly re-determined petitioner's FS amount when it discovered an error in the calculations.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Katherine May
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner receives FS as part of a two-person household with her son. Through September, 2014 she received \$347 per month FS based upon \$888 per month earned income, her son's \$629.78 Supplemental Security Income (SSI), and a monthly shelter cost of \$1,872.
3. During an eligibility review in September, 2014, the worker discovered an error in the calculations. Petitioner paid \$1,872 as her yearly property tax, but it was entered into the FS

budget as a monthly amount. As a result petitioner was receiving maximum FS for a two-person household because her shelter deduction was higher than her net income.

4. The worker changed the property tax amount to a monthly one by dividing \$1,872 by twelve for a monthly amount of \$156. The result was that, effective October 1, 2014, petitioner's FS were reduced to \$49.

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). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month. 7 C.F.R. §273.9(d)(1); FS Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FS Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FS Handbook, App. 4.6.7. The maximum shelter deduction is \$490 unless the household includes an elderly or disabled individual; in those cases there is no shelter cap. Handbook, App. 8.1.3. and 4.6.7.1.

As noted in the findings, petitioner does not pay \$1,872 per month for her shelter expense. The \$1,872 yearly property tax bill averaged out to \$156 per month (petitioner does not pay a mortgage). When the recalculation was done, petitioner's earned income was \$774 per month, and petitioner's son still received \$620.78 in SSI. After the earned and standard deductions, net income was \$1,084.98. One-half of that is \$542.49. With the monthly tax average of \$156 added to the \$446 utility standard, shelter expenses total \$602, which is \$59.61 higher than \$542.49.

After the \$59.61 shelter deduction, net income was \$1,025.47. A two-person household with that net income is entitled to \$49 FS. Handbook, App. 8.1.2.

Petitioner argued that her teenage son eats far more than an average person, and as the father of teenage sons I can appreciate her situation. However, FS rules do not allow a hearing officer to increase FS based upon individual circumstances; the FS allotment is set based upon the formula described above. If not for the error in the budget for the previous months, petitioner's FS always would have been in the \$40-\$50 range. I must conclude that the re-determination was done correctly.

CONCLUSIONS OF LAW

The agency correctly determined petitioner's FS amount when an error in the shelter expense was found, and thus the reduction of FS to \$49 effective October 1, 2014 was accurate.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 1st day of December, 2014

\sBrian C. Schneider
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 December 1, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability