



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/162118

PRELIMINARY RECITALS

Pursuant to a petition filed November 21, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Manitowoc County Dept. of Human Services to reduce FoodShare benefits (FS), a hearing was held on December 17, 2014, by telephone.

The issue for determination is whether petitioner has received correct FS.

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact
Manitowoc County Dept. of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Manitowoc County.
2. Petitioner receives FS for a one-person household. He had a review in November, 2014. He stated that he had not received energy assistance in the past twelve months, and he said that he pays \$300 per month rent and no utilities except his phone. His income was \$852 per month social security.

3. When the worker explained that due to new utility budgeting rules his FS likely would be decreased, petitioner filed an appeal. Then several days later he brought in verification that he now pays \$50 per month for electricity and \$50 per month for gas.
4. When those changes were entered petitioner's FS increased for December, 2014 to \$104 (they had been \$54 in November). Effective January 1, 2015 FS will go down to \$97 because petitioner will receive a \$15 per month cost of living increase on his social security.

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.

Prior to the federal 2014 Farm Bill the Wisconsin Department of Administration issued an annual energy assistance payment of \$1 to all FS households who were not already receiving energy assistance. This policy allowed Wisconsin to grant all FS households the Heating Standard Utility Allowance of \$450. Actual utility usage did not matter.

The 2014 Farm Bill changed this practice. The 2014 Farm Bill requires a household to have received an energy assistance payment of greater than \$20 to receive the \$446 utility standard. 7 U.S.C. 2014(e)(6)(C)(ii)(I). Therefore households that do not receive energy assistance receive the utility standard based on the utility obligation actually incurred by the household.

When petitioner had his review he stated that he paid no utilities other than his phone. Thus under the new law he would get credit for only a \$30 utility standard for the phone. The result from that was that his FS were scheduled to decrease to \$16. When petitioner verified that he now is paying for gas and electric, he received the full utility standard, and his FS increased to \$104.

Petitioner complained that his FS are being reduced again in January, but that is due to his cost of living increase. Again, since FS are calculated on a formula, any increase in income is going to reduce the FS.

I conclude that the county handled petitioner's FS determination correctly. The worker acted appropriately as petitioner reported the changes.

CONCLUSIONS OF LAW

The county correctly determined petitioner's FS following his November, 2014 review.

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 19th 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 19, 2014.

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