



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/160400

PRELIMINARY RECITALS

Pursuant to a petition filed September 02, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a telephone hearing was held on March 17, 2015.

This matter had been previously scheduled for hearing on October 6, 2014. The matter was rescheduled for hearing in November, December, January, and February due to rescheduling requests by petitioner and/or due to telephone connectivity issues. Unable to contact the petitioner at the contact telephone number that he provided for the February hearing, the matter was dismissed as abandoned. The petitioner timely sought a rehearing, indicating that he did not intend to abandon his appeal. The rehearing was granted on February 24, 2014, and the matter again set for hearing.

The issue for determination is whether petitioner was accorded proper medical expense deductions.

There appeared at that time 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: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 75 year old resident of Wood County who receives FS.
2. Petitioner is eligible to receive the excess medical expense deduction for FS budget purposes as an elderly adult.
3. In June, 2013, petitioner had an FS review. He presented multiple medical bills, and the deduction related to those bills was budgeted over the ensuing 12 month period.
4. Petitioner did not complete his 2014 renewal timely, and his FS case closed on July 1, 2014.
5. Petitioner reapplied for FS on July 23, 2014. At that time, petitioner presented more medical bills. His worker found that budgeting them over the next 12 months would not increase his allotment, and therefore those medical bills were applied to petitioner's first full month of his new enrollment, August, 2014. In August, petitioner's FS allotment was \$189.00.
6. In September, 2014, petitioner's FS decreased to \$15.00, with no large medical expense deduction. Petitioner submitted additional medical bills on September 8, 2014. The excess medical expense deduction for these medical bills was applied to petitioner's October, 2014, benefits, and his FS allotment for that month was \$194.00.
7. In November, 2014, petitioner's FS again decreased to \$16.00, with no large medical expense deduction.
8. Petitioner submitted a Request for Fair Hearing on September 2, 2014.

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, § 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, § 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, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, § 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, § 4.6.7.

The issue in this case is the medical expense deduction. The Handbook, § 4.6.4.1, provides the following guidance:

Allow previously acquired charges (not yet paid) and current payments when calculating a medical expense deduction. Previously acquired charges include charges incurred anytime before or during the certification period, as long as the individual has an agreement to pay the charges and is still obligated for the expense.

Past unpaid medical bills can be used to prospectively budget recurring medical expenses at application or recertification.

One time medical expenses (i.e. hospital bills) can be budgeted for one month or averaged over the remaining certification period.

Medical expense payments made during the certification period are allowable. Medical expenses paid prior to the certification period are not allowable.

An additional factor in this case is that before an expense can be budgeted, it first must be reported. 7 C.F.R. §273.12(c)(1). When a change is reported, it becomes effective the next possible month. A third factor is that an appeal of a negative action must be filed within 90 days of the action. 7 C.F.R. §273.15(g); see also Wis. Adm. Code, §HA 3.05(3)(b).

The petitioner argued that his FS benefits have not been properly determined (see, Exhibit 1), and specifically raised an issue regarding the budgeting of his excess medical expense deduction. The FS budget determinations performed by the respondent are only going to be as accurate as the information provided by the petitioner will allow. The petitioner did not identify any specific error on the part of the respondent, nor did he identify any specific medical bill that was not properly budgeted by the respondent. I have reviewed the respondent's budget determinations and have found no apparent error.

The petitioner provided a large number of documents with medical billing information. See, Exhibit 2. The documents include "Itemized Statements," "After Visit Summaries," and Security Health Plan Statements. Unfortunately, I am unable to discern whether any, some, or none of these have been or should be included as part of petitioner's excess medical deduction. The petitioner has provided no further information in this regard either. The respondent notes that the dates on some of these documents would indicate that the bills have not yet been submitted for payment by Medicaid. When those bills have been finalized, the respondent can review and determine if they may be applied to petitioner's FS budget for application as an excess medical deduction.

Due to petitioner's anticipated ongoing incursion of medical bills, he is encouraged to continue to supply the respondent with medical expense information that could impact his FS allotment. At this time, however, based upon the record before me I am unable to discern any error on the part of the respondent in determining petitioner's FS allotment and/or addressing petitioner's excess medical deduction.

CONCLUSIONS OF LAW

Petitioner has not established any error by the respondent in determining petitioner's FS allotment or applying his excess medical expense deduction.

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 25th day of March, 2015.

\sPeter McCombs
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 March 25, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability