FH
Redact

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/162153

PRELIMINARY RECITALS

Pursuant to a petition filed November 20, 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 December 10, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare (FS) benefits from $194 to $118 effective December 1, 2014, due to petitioner no longer having any utility bill to create a FS utility deduction.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:
Petitioner:

Redact

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Redact, IM advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:
Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Milwaukee County who receives FoodShare (FS) benefits for a household of one.

2. The petitioner receives earned income as a banquet server for the Redact in Milwaukee of $2.75 per hour plus average tips of $273 which averages a total of about $322.50 every other week as of October, 2014.
3. During his October, 2014 FS review, petitioner informed Milwaukee Enrollment Services (MES) that he no longer pays any utility bill because his utilities are included in her rent.
4. A FS recipient only receives a utility credit deduction when that FS recipient pays for utility bills per Redact, issued April 18, 2014 (effective 4-28-14). Petitioner's lack of a utility bill resulted in no utility deduction in calculating his FS benefits, as documented by the county's FS budget screens for the petitioner during the relevant months. See Exhibit 3.
5. Milwaukee Enrollment Services (MES) sent a November 10, 2014 Notice of Decision to the petitioner stating that effective December 1, 2014, his FS benefits would be reduced from $194 to $118, due to no utility bill expense deduction as explained in Findings of Fact #3 and #4 above. See Exhibit 1.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. §273.9(b). From the gross household income, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is $134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction – for medical expenses exceeding $35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and **(5) shelter expenses deduction - 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). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at http://www.emhandbooks.wi.gov/fsh/.

During the December 10, 2014 hearing, the MES representative provided petitioner a detailed explanation regarding the calculation of the December 1, 2014 reduction in his FS benefits. Ms. Redact explained and documented that due to no longer having a utility expense deduction, his FS benefits decreased as of December 1, 2014. See Findings of Fact #3 - #5 above. The petitioner admitted that he had no utility bill, and was unable to refute the county's case that it had correctly calculated the petitioner's household income and lack of utility deduction for a FS household which thus reduced his FS benefits. The petitioner explained that he has many bills and needs the additional FS benefits (before the FS reduction). However, in reviewing MES' calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I must conclude that Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare (FS) benefits from $194 to $118 effective December 1, 2014, due to petitioner no longer having any utility bill to create a FS utility deduction.

CONCLUSIONS OF LAW

Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare (FS) benefits from $194 to $118 effective December 1, 2014, due to petitioner no longer having any utility bill to create a FS utility deduction.

THEREFORE, it is **ORDERED**

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 16th day of January, 2015

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\sGary M. Wolkstein
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 January 16, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability