



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/162709

PRELIMINARY RECITALS

Pursuant to a petition filed December 15, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Dane County Dept. of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 28, 2015, by telephone.

The issue for determination is whether the county correctly requires petitioner's daughter's financial information.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Barb Haynes
Dane County Dept. of Human Services
1819 Aberg Avenue
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Dane County.
2. Until November, 2014, petitioner received maximum monthly FS for a one-person household. In October petitioner reported that she moved into her daughter's residence. Her daughter is 21 years old.

3. Petitioner's FS increased to \$237 in November because the county added her daughter to her FS household. The county obtained petitioner's daughter's financial information at that time. Effective January 1 FS increased to \$302.
4. Petitioner has a review due by the end of the January, 2015. The county requested verification of her daughter's income. Petitioner reported that her daughter does not want to provide the information.

DISCUSSION

Petitioner appealed saying that her "food stamp amount is usually never right." When I asked her during the hearing to explain her issue with FS, she stated that her daughter did not want to provide her income information. It appears that the problem is that the county is requiring petitioner's daughter to be included in petitioner's FS household even though they do not purchase and prepare meals together. However, the county is correct. Until petitioner's daughter turns age 22, she and petitioner are required by law to be included in the FS household together if they live in the same residence.

The federal FS regulations define FS household composition as follows:

(a) *General household definition.* A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:

1. An individual living alone;
2. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
3. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

7 C.F.R. §273.1(a). FS rules provide further as follows:

The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

- (i) Spouses;
- (ii) **A person under 22 years of age who is living with his or her natural or adoptive parent(s)** or step-parent(s); and
- (iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent.

7 C.F.R. §273.1(b)(1); see also FS Handbook, Appendix 3.3.1.2. I put in bold the provisions that apply to petitioner. Because petitioner's daughter is under age 22, she must be included in petitioner's FS household even if they do not purchase and prepare meals together. That is the reason petitioner's FS increased when she reported moving into her daughter's residence – the household increased from one to two. Now petitioner's FS are pending to close because she has to verify her daughter's income.

It appears that the county is handling petitioner's FS case correctly. I thus will dismiss the appeal because there is nothing for me to correct.

CONCLUSIONS OF LAW

The county correctly added petitioner's 21-year-old daughter to her FS household when petitioner reported that she moved into her daughter's residence.

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 30th day of January, 2015

\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 January 30, 2015.

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