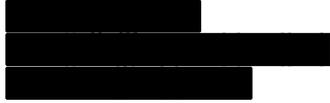




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/162714

PRELIMINARY RECITALS

Pursuant to a petition filed December 16, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 20, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the agency properly determined the petitioner's November 2014 and December 2014 FS benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Karen Mayer

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Kenosha County.
2. In October 2014 the petitioner received \$194 in monthly FoodShare (FS) benefits.
3. In November 2014 the petitioner's monthly FS benefits were reduced to \$16. The petitioner was working part-time. In calculating the petitioner's October 2014 FS benefits the agency only used

the petitioner's income from her part-time time. In October 2014 the agency learned that the petitioner started receiving unemployment benefits. Beginning in November 2014 the agency used the petitioner's unemployment and her wages from her part-time job to determine her monthly FS benefits.

4. The petitioner's monthly gross income in November 2014 was \$1,506.31 consisting of \$546.34 in employment earnings and \$959.97 from unemployment.
5. The petitioner's monthly gross income in December 2014 was \$1,484.98 consisting of \$413.21 in employment earnings and \$1,071.77 from unemployment.
6. The petitioner's monthly rent in November 2014 and December 2014 was \$565.00. The petitioner is responsible for all her utilities including heat and electric.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 1 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I reviewed the agency's calculations in this case, and the calculations are correct. The petitioner received a reduction in her FS benefits when she began receiving unemployment benefits. These benefits increased her monthly gross income, which caused her monthly FS benefits to decrease. At the hearing the petitioner stated that her unemployment benefits ended in the beginning of January. She reported this change to the agency in January. Changes reported in January, go into effect in February. Thus, this decrease in income will likely cause an increase in the petitioner's February FS benefits.

CONCLUSIONS OF LAW

The agency correctly calculated the petitioner's November and December 2014 FS benefits.

THEREFORE, it is

ORDERED

That the petition is 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 Milwaukee,
Wisconsin, this 22nd day of January, 2015

\sCorinne Balter
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 22, 2015.

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