



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
Redact

DECISION

FOO/162786

PRELIMINARY RECITALS

Pursuant to a petition filed December 20, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on January 20, 2015, by telephone.

The issue for determination is whether the agency correctly determined petitioner's FS after a change.

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact

Respondent:

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

By: [Redacted]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. Petitioner received FS as a one-person household. In September, 2014 he received the maximum allotment of \$189.
3. On September 5, 2014 the agency processed petitioner's six-month report form. The agency requested verification of petitioner's income from [Redacted]. The case initially went into closing status when the verification was not received, but petitioner then sent in check stubs dated August 1 and September 12. Both showed weekly income to be \$616, but the worker entered it as

bi-weekly. By a notice dated September 25, 2014, the agency informed petitioner that his FS would be reduced to \$67 effective October 1, 2014 based upon monthly income of \$1,334.74, \$600 per month rent, and petitioner being responsible for utilities.

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. The maximum shelter deduction is \$490 unless the household includes an elderly or disabled individual; in those cases there is no shelter cap. Handbook, App. 8.1.3. and 4.6.7.1.

I have reviewed the calculations and they are correct. With monthly income of \$1,334.74 (I note that for FS bi-weekly income is multiplied by 2.15 to get monthly income), there are deductions for earned income (\$266.94), standard (\$155), and shelter (the maximum \$490), leaving net income of \$422.80. A single person with that net income is entitled to \$67 in FS. FS Handbook, App. 8.1.2.

There was further action in January. Petitioner's FS were pending to be closed February 1, 2015 because he had not completed another review. Petitioner needed to present pay stubs, and the case was going to be reevaluated by the agency. It appears that petitioner might not be eligible for FS if his income is budgeted as being received weekly instead of bi-weekly, but if petitioner disagrees with that determination he can file a new appeal. I am dealing only with the October reduction.

CONCLUSIONS OF LAW

The agency correctly reduced petitioner's FS when income from his new job was budgeted.

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 27th 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 27, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability