



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO [REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed December 29, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the [REDACTED] Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on January 20, 2015, at [REDACTED], Wisconsin.

The issue for determination is whether [REDACTED] Enrollment Services (MES) correctly reduced the petitioner's FoodShare benefits from \$147 to \$16 effective December 1, 2014, due to an increase in petitioner's unearned income (petitioner becoming eligible to receive W-2 benefits of \$653 for a household of two).

There appeared at that time and place 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: Jose Silvestre, Jr.

[REDACTED] Enrollment Services
1220 W Vliet St, Room 106
[REDACTED] WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of [REDACTED] County who resides with his minor son.
2. The petitioner receives FoodShare (FS) benefits for a household of two.
3. During petitioner's October 27, 2014 FS renewal application, Milwaukee Enrollment Services (MES) learned that petitioner began receiving W-2 benefits of \$653. See Exhibit 1.
4. During October, 2014, petitioner received gross earned income of \$1,617.66 from his employment at [REDACTED] based upon his paystubs.
5. The petitioner's total household income during October, 2014 was \$2,319.41. See Exhibit 1.
6. MES sent a November 6, 2014 Notice of Decision to the petitioner stating that his FS benefits would be reduced from \$147 to \$16 effective December 1, 2014, due to an increase in unearned income (began eligibility to receive W-2 benefits). See Exhibit 2.
7. The petitioner's FS screens indicate how MES correctly calculated the petitioner's FS benefits for November and December, 2014. See Exhibit 3.
8. MES established that petitioner was eligible for December, 2014 W-2 benefit of \$653, but because petitioner missing too many hours of work for December, 2014, his W-2 was reduced to zero. See Exhibit 1.

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. 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.

During the hearing, petitioner asserted that he did not receive the \$653 in W-2 benefits, because of hourly sanctions which reduced his December, 2014 W-2 to zero. The general rule for FS calculations is that income received in a month is used to calculate the FS allotment for that month. 7 C.F.R. §273.10(c)(2). However, there is an exception to that general rule: when a means-tested public benefit (such as W-2) is decreased due to a failure to comply with a requirement of the program that imposed the benefit decrease. 7 C.F.R. §273.11(j); FS Handbook, App. 7.1.1.7. In such a case, **the amount of benefits the person was eligible for before the sanction is used to calculate the FS allotment, not the amount of benefits the person actually receives.**

The FoodShare Handbook, 7.1.1.7 provides the following regarding a FS work program sanction:

Do not increase a FS group's allotment when an individual's cash benefits under any other federal, state or local means-tested public assistance program are reduced for failure to perform an act required by other program, Specifically:

1. **Failure to comply with work programs** or
2. Failure to comply with school attendance requirements (Learnfare), or

3. An act of fraud under that program.

Example 11: a W-2 participant intentionally fails to comply with a W-2 requirement and is sanctioned \$70.00 for non-participation. The W-2 group will only receive a check for \$603; however, the full amount of \$673 must be budgeted for FS.

During the January 20, 2015 hearing, petitioner was unable to provide any testimony or evidence to refute that MES correctly reduced his FS benefits effective December 1, 2014, for the reasons set forth above. Accordingly, I conclude that Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare benefits from \$147 to \$16 effective December 1, 2014, due to an increase in petitioner's unearned income (petitioner becoming eligible to receive W-2 benefits of \$653 for a household of two).

CONCLUSIONS OF LAW

Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare benefits from \$147 to \$16 effective December 1, 2014, due to an increase in petitioner's unearned income (petitioner becoming eligible to receive W-2 benefits of \$653 for a household of two).

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.

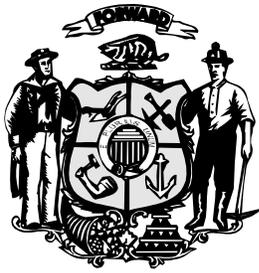
APPEAL TO COURT

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 2nd day of March, 2015

\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 March 2, 2015.

[REDACTED] Enrollment Services
Division of Health Care Access and Accountability