



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/163551

PRELIMINARY RECITALS

Pursuant to a petition filed January 27, 2015, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on February 17, 2015, by telephone.

The issue for determination is how to verify medical expenses.

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact
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 # Redact) is an 80-year-old resident of Milwaukee County.
2. Petitioner receives FS as a one-person household. In January, 2015 he received the maximum allotment for one person of \$194.
3. Petitioner was notified that his FS would close February 1, 2015 because he did not complete a review. Petitioner had a telephone interview scheduled on January 6, 2015, but nobody called until several hours after the scheduled time. The interview was completed, and petitioner was

asked to verify his pension income, which he did timely. The review was completed and petitioner was issued \$194 for February.

4. The calculation for the \$194 included a \$617 excess medical expense deduction that was slated to end. Therefore petitioner's March, 2015 FS are scheduled to be reduced unless petitioner verifies additional medical expenses for which he is liable.

DISCUSSION

As noted in the findings, the reason petitioner filed this appeal was the notice saying that his FS would end February 1, 2015 because his review was not completed. The review was completed in the meantime. However, a new issue arose concerning petitioner's medical expense deduction.

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.

The only deductions that would affect petitioner's FS are the standard, the medical expense, and the shelter ones. Petitioner does not have earned income and he does not pay for child care. As noted, the standard deduction is the same for everybody.

The medical expense deduction is described in the FS Handbook, App. 4.6.4:

Medical expenses for elderly, blind, or disabled members may be entered through one of the following budgeting methods:

- Budgeted as a recurring monthly expense,
- Budgeted as a one-time lump sum expense for one month,
- Budgeted for the remainder of a FS certification period,
- Budgeted based on the terms of a payment plan, or
- Averaged over the time period a one-time medical expense was intended to cover (such as a prepaid or met medical deductible).

Under all of the budgeting options, the obligation amount (amount incurred) is counted rather than the amount paid. The member may or may not pay the bill so it is important to make sure that the expense is not counted more than once.

A monthly medical expense obligation budgeted based on the terms of a payment plan can be claimed for as long as the original payment plan is in place. Amounts still due after they were budgeted during a previous FS certification period may not be included as part of the monthly expense.

The averaging of the one-time medical expense cannot extend past the certification period in which the expense was originally counted.

Italics added. It appears that the agency budgeted a large medical bill for petitioner over the remainder of a certification period, which would explain why the monthly amount of \$617.57 was so high. With the end of petitioner's certification period, the budgeting of the large medical expense would end. At this point petitioner would have to verify any new medical expense. As I pointed out at the hearing, the bill statements he sent to me are insufficient because they do not say when the bill was incurred or whether payments have been made. I note that the current bill statement says that petitioner's balance is just \$242.97, so even if this is a new bill, petitioner would not receive a \$617 deduction in the FS calculation.

Verification would have to be statement from Aurora showing petitioner's charges and payments over the past months. Petitioner will have to obtain that from Aurora, and then forward it to Milwaukee Enrollment Services.

CONCLUSIONS OF LAW

1. No issue remains for determination on the issue appealed by petitioner because his review is completed and his FS reopened.
2. The agency is correctly removing a \$617 medical expense deduction from petitioner's March, 2015 FS calculations because the expense was used in the prior certification period and petitioner is not liable to Aurora for anywhere near that amount at present. Current out-of-pocket medical expenses will have to be verified for future months.

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 19th day of February, 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 February 19, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability