



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/163588

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 to reduce FoodShare benefits (FS), a hearing was held on February 17, 2015, by telephone.

The issue for determination is whether the agency correctly reduced FS when petitioner reported a new job.

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 a resident of Milwaukee County.
2. Petitioner receives FS for herself and five children. In December, 2014 she received \$753 in FS.
3. In late November petitioner reported that she would be returning to work at Redact. The agency received verification that petitioner would be working full-time with monthly income of \$1,728.60. Petitioner also receives social security for two children and child support for

another. In December and January petitioner additionally received Wisconsin Works (W-2) payments.

4. By a notice dated November 24, 2014, the agency informed petitioner that FS would be reduced to \$258 effective January 1, 2015. After the notice went out it was discovered that petitioner's January W-2 payment would be lower than budgeted. A second notice dated December 8, 2014 informed her that January FS would be \$398.

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 \$221 per month for petitioner's household size. 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.

FS allotments are based upon a household's prospective income, meaning that the agency must estimate the household's income for the month in which FS are to be received. FS Handbook, Appendix 4.1.1. Income from the past 30 days typically is used to make the estimate, but the agency also can estimate income from an employer's verification of expected hours and wages. 7 C.F.R. §273.10(c)(1) and (2); Handbook, App. 1.2.4.2.

In this case petitioner was given the impression by an agency worker that because she received only one paycheck in December, the lower December income would be used to determine January FS. If the worker told petitioner as such, the worker erred. All FS are based upon income estimated to be received in the benefit month.

Petitioner mentioned that she actually received less child support in January than expected. However, there is no process for going back and changing FS amounts if the estimates turn out to be incorrect (which is true whether income is lower or higher than expected). I must conclude, therefore, that the agency correctly determined petitioner's January FS amount.

CONCLUSIONS OF LAW

The agency correctly determined petitioner's January, 2015 FS based upon her expected January income.

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