



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/165888

PRELIMINARY RECITALS

Pursuant to a petition filed May 06, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a telephonic hearing was held on June 10, 2015, at Janesville, Wisconsin.

The issue for determination is whether the county agency met its burden of proof to establish that it correctly and accurately reduced the petitioner's FoodShare (FS) benefits from \$119 to \$16 for the month of April, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact, ESS
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Rock County who resides with her boyfriend, Redact.

2. The petitioner received FoodShare (FS) benefits of \$119 for March, 2015 for a FS household of two.
3. During March, 2015, [Redact] [Redact] received Unemployment Compensation (UC) benefits totaling \$996.53 for FS purposes. He also earned \$162 from the [Redact].
4. The petitioner's employment at [Redact] ended during February, 2015.
5. During March, 2015, the county agency learned from petitioner that she began to receive \$193 per week in UC benefits.
6. The county agency sent a March 16, 2015 Notice of Decision to the petitioner stating that her FS benefits would be reduced from \$119 to \$16 effective April 1, 2015, due to an increase in unearned income (petitioner beginning to receive unemployment compensation benefits during March, 2015). See Exhibit 2.
7. During the June 10, 2015 hearing, the petitioner brought to the hearing (and gave to the county representative) paystubs of [Redact]'s earned income at [Redact] [Redact], LCC, to document that he had no earned income during March, 2015. The county agency budgeted \$157.50 every other week to Mr. [Redact] as part of the petitioner's FS household for March, 2015.
8. On June 11, 2015, ES Supervisor [Redact] sent to DHA a copy of Mr. [Redact]'s paystubs from [Redact] provided by petitioner to the county agency during the hearing.

DISCUSSION

During the June 10, 2015 hearing, petitioner did not contest the facts as stated in Findings of Fact # 1-#5 above. However, petitioner argued during the hearing (and presented Mr. [Redact]'s paystubs to the agency) that the agency was inaccurately budgeting \$157.50 every other week during March, 2015 for Mr. [Redact], when his paystubs document that he had no earned income during March, 2015 at [Redact] [Redact]. See Findings of Fact #7 and #8 above. As a result, during the hearing, the county agency did not meet its burden of proof to establish that it correctly and accurately reduced the petitioner's FoodShare (FS) benefits from \$119 to \$16 for the month of April, 2015.

CONCLUSIONS OF LAW

The county agency did not meet its burden of proof to establish that it correctly and accurately reduced the petitioner's FoodShare (FS) benefits from \$119 to \$16 for the month of April, 2015, as petitioner's boyfriend had no earned income from [Redact] for the month of March, 2015.

THEREFORE, it is

ORDERED

The matter is remanded to the county agency with instruction to: a) re-calculate the petitioner's FS benefits for the month of April, 2015 without budgeted any earned income to [Redact] [Redact] from [Redact]; b) send a new notice of decision to the petitioner explaining the recalculation of petitioner's FS benefits for a household of two for the month of April, 2015; and c) if appropriate, send a supplemental FS check to the petitioner for April, 2015, within 10 days of the date of this Decision.

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 3rd day of July, 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 July 3, 2015.

Rock County Department of Social Services
Division of Health Care Access and Accountability