



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed June 4, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Columbia County Health & Human Services in regard to FoodShare benefits (FS), a hearing was held on July 22, 2015, by telephone. A hearing set for June 25, 2015, was rescheduled at the petitioner's request.

The issue for determination is whether the Department correctly computed the petitioner's FS amounts for May and June 2015.

There appeared at that time 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: [REDACTED]
Columbia County Health & Human Services
2652 Murphy Rd.
PO Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County.

- [REDACTED]
2. The petitioner applied and was found eligible for FS in February 2015 as a household of one person. He received \$194 in FS in both March and April, 2015.
 3. In April, the agency learned that his income had increased from \$687 to \$815 monthly. The agency entered this information into the case. On April 13, 2015, the agency issued written notice to the petitioner advising that his FS would be reduced to \$30 monthly effective May 1, 2015, due to increased income. The petitioner appealed.
 4. The petitioner later met with an agency representative, and indicated both that his income was correct and that he was not paying rent. At hearing, the petitioner testified that he had begun paying rent of \$250 to a relative beginning in July 2015.

DISCUSSION

The petitioner questions the correctness of the calculation of the FS allotment amount for May and June 2015. The gross income was based on his Social Security income, as verified by the Social Security Administration. There is no dispute as to the amounts of that income, or the agency's arithmetic. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at www.emhandbooks.wisconsin.gov/fsh/.

In calculating the petitioner's May allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires that the county start with gross, rather than net, income, and allow only a limited number of identified deductions from that income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). That amount is currently \$155 for one person. *FS Wisconsin Handbook*, 8.1.3. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly *not* given here. A Dependent Care Deduction is also taken if the petitioner incurred day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person's allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. There is no record of the latter three expenses here. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii). Based on a *zero* rent/shelter cost plus the \$446 utility standard, the petitioner's total shelter costs exceeded half of the adjusted income, and a modest excess shelter cost was deducted in the allotment calculation.

The petitioner does not deny that he told the agency that he was not paying rent. Thus, the agency's action of reducing his FS allotment was correct. However, he testified in hearing that he had begun paying his relative rent of \$250 in July 2015. The agency agreed to adjust his FS upward going forward, by including the \$250 rent expense.

CONCLUSIONS OF LAW

1. The agency correctly calculated the petitioner's FS for May and June 2015.

THEREFORE, it is

ORDERED

That the petition is 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 23rd day of July, 2015

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 23, 2015.

Columbia County Health & Human Services
Division of Health Care Access and Accountability