



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/166607

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 15, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on July 08, 2015, at La Crosse, Wisconsin.

The issue for determination is whether the agency correctly reduced petitioner's FS allotment from \$511 effective June 1, 2015.

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: Tom Miller

La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. Petitioner was the head of a FS case of 4 persons.

3. [REDACTED] [REDACTED] began living with the household around May 2015. [REDACTED] income was, thus, included as part of household income for budget purposes. [REDACTED] [REDACTED]'s employer submitted an employer verification form. The form reported 40 hours of earned income at \$11.50 per hour at [REDACTED]. This was incorrect and the correct amount was \$11.00 per hour.
4. Petitioner did not provide pay stubs from [REDACTED].
5. The agency reduced the allotment based on the reported earned income of [REDACTED] [REDACTED].

### DISCUSSION

At the time of hearing, the petitioner did not dispute any aspect of the allotment change other than the income budgeted for [REDACTED]. Petitioner argued that the hourly wage was incorrectly reported by the employer as \$11.50 when it should have correctly been \$11. Petitioner also asserted that the overtime reported by the employer was not correct.

The problem with this, however, is that the agency did not make any error in its reliance on the employer's reported information on the Employer Verification Form (EVF). The agency did rely on the best, and the only, information it had available. It appears that the employer made an error in its reporting of the income information.

At hearing, petitioner reported that she could provide pay stubs reflecting current earned income information for [REDACTED]. At the time of hearing, I directed petitioner to provide these pay stubs to the agency. The agency representative agreed that if pay stubs can be provided and the \$11 hourly wage proven then petitioner's allotment for June and July can be redetermined with the possibility of a supplement to make up the difference. Petitioner was also informed that pay stubs will be necessary to redetermine the FS allotment going forward if the petitioner wishes the agency to no longer rely upon the EVF.

### CONCLUSIONS OF LAW

The petitioner may be due a supplement for June and July 2015 FS if she is able to provide pay stubs for [REDACTED] showing that the EVF relied on by the agency reported inaccurate information.

**THEREFORE, it is**

### ORDERED

That this matter is remanded to the agency for:

1. a redetermination of the June and July 2015 FS allotments based on any pay stubs already provided to the agency establishing that the EVF relied upon by the agency was inaccurate with regard to [REDACTED]'s income; and,
2. if such pay stubs are provided by petitioner, then the agency shall use those to determine income in lieu of the already provided EVF and redetermine future allotment consistent with its verification procedures and other FS rules.

These actions shall be completed within 10 days.

### **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 10th day of August, 2015

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\sJohn P. Tedesco  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 10, 2015.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability