



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/167709

PRELIMINARY RECITALS

Pursuant to a petition filed August 04, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on October 20, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits effective May 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Pang Thao Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. On March 24, 2015, the agency processed an address change for the Petitioner. At the time of the change report, the Petitioner did not report a shelter expense. The agency updated his shelter expense to \$0.

3. On March 25, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would decrease from \$139/month to \$26/month effective May 1, 2015. This was based on income from Social Security of \$824/month, \$0 rent expense and a household size of one.
4. On April 24, 2015, the agency received verification that the Petitioner has a rent expense of \$176/month and updated the Petitioner's case with that information.
5. On April 24, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would increase from \$26/month to \$79/month effective May 1, 2015. This was based on Social Security income of \$824/month, rent expense of \$176/month and a household size of one. A supplement of \$53 in FS benefits was also issued to the Petitioner.
6. On July 30, 2015, the agency received verification that the Petitioner's rent increased to \$213/month.
7. On July 31, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would increase from \$79/month to \$90/month effective August 1, 2015. This was based on Social Security income of \$824/month, rent expense of \$213/month and a household size of one.
8. On August 15, 2015, a supplement of \$11 in FS benefits was issued to the Petitioner.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned 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 for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 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); FSH, § 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); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 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); FSH, § 4.6.7.

In this case, the Petitioner did not dispute the agency calculations. He testified that he did not understand why his benefits changed every time he moves. The agency explained the way that benefits are calculated, including an explanation that when the amount of rent expense changes, the FS benefits change.

I reviewed the agency's determinations regarding the changes in the Petitioner's FS benefits from March, 2015 through August, 2015. I find that the agency properly calculated income and properly applied a standard deduction and shelter deduction based on the Petitioner's rent expenses and utility standard. Therefore, I conclude the agency properly determined the Petitioner's FS allotment for the period of March, 2015 – August, 2015.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS allotment for the period of March, 2015 – August, 2015.

THEREFORE, it is

ORDERED

That the Petitioner's appeal 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 Milwaukee,
Wisconsin, this 9th day of November, 2015

\sDebra Bursinger
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 November 9, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability