



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/168330

PRELIMINARY RECITALS

Pursuant to a petition filed August 28, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Winnebago County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 10, 2015, at Oshkosh, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner’s FS benefits.

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: Jeanie Ortiz

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Winnebago County.
2. On August 20, 2015, the Petitioner completed a FS renewal. He reported at that time that he is responsible for 1/3 of the \$600/month rent on his home. The agency updated the Petitioner’s case to reflect rent expense of \$200/month.

3. On September 8, 2015, the agency issued a Notice of Decision to the Petitioner informing him that effective October 1, 2015, his FS benefits would decrease from \$95/month to \$69/month. This was based on Social Security income of \$871/month, rent of \$200/month, utility expenses and a household size of one.
4. On September 15, 2015, the Petitioner contacted the agency to report that he had moved and his rent was \$241.67/month.
5. On September 21, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would decrease from \$95/month to \$81/month. This was based on Social Security income of \$871/month, rent of \$241.67/month, utility expenses and a household size of one.

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 testified that he did not understand why his FS benefits change every time he moves. The formula for determining FS benefits was explained by the agency representative. Because the Petitioner's rent expense changes, his FS benefits are impacted.

The Petitioner did not dispute the Social Security income being counted. He also did not dispute the rent expense being counted. Prior to August, 2015, the Petitioner had reported rent expense of \$300/month. At the time of his renewal in August, he reported a change in rent expense to \$200/month. In September, 2015, he reported another change to his rent expense. These changes account for the changes in his FS benefits.

I reviewed the agency budget screens. Based on the information provided, I conclude that the agency has properly determined the Petitioner's FS benefits.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits.

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 18th 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 18, 2015.

Winnebago County Department of Human Services
Division of Health Care Access and Accountability