



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 September 22, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services [MiLES] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on October 15, 2015.

The issue for determination is whether petitioner's September 2015 FS of \$388 was correct.

There appeared at that time via telephone 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], HSPC, SR.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County, Wisconsin.

2. Petitioner's son ["DDB"] begin to receive Supplemental Security Income ["SSI"] in the amount of \$733 per month; this caused petitioner's FS allotment for September 2015 to decrease from \$649 to \$388.
3. By an *About Your Benefits* letter notice dated August 3, 2015 MiLES informed petitioner that as of September 1, 2015 her monthly FS would decrease from \$649 to \$388 due to DDB's SSI.
4. On September 9, 2015 petitioner informed MiLES that she was not getting DDB's SSI because it was being sent directly to the Bureau of Milwaukee Child Welfare ["BMCW"]; this caused her October FS to increase to \$649 but her September FS remained at \$388.

DISCUSSION

The amount of a person's monthly FS allotment depends, in part, on the person's income: in general, the higher the income the lower the allotment. 7 C.F.R. § 273.10 (2014); *FoodShare Wisconsin Handbook* ["FWH"] 4.3.1 & 7.1.1. When calculating an FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2014); FWH 4.3.2. For purposes of FS *income* includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2014); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction¹, dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction²; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2014); FWH 4.6.1.

Petitioner argues that she reported on September 9, 2015 that she no longer received DDB's SSI and that that information should have been used when calculating her September 2015 monthly FS allotment.

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, decreases in income, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification. FWH 6.1.3.3.; See also, 7 C.F.R. §§ 273.12(c)(1)(i) & (ii) (2014). Thus, the change petitioner reported on September 9th would not be effective until October 1st. Therefore, the fact that petitioner was no longer receiving DDB's SSI could not be used when calculating petitioner's September 2015 monthly FS allotment.

Petitioner testified that she spoke to someone at MiLES who told her that she should receive \$649 in FS in September. This might be the case, but it cannot change the requirements of the law as detailed above.

¹ The excess medical deduction is only for members of the FS household who are elderly, blind, or disabled. Medical expenses incurred by a member of the FS household who is not elderly, blind, or disabled do not qualify for the excess medical deduction. 7 C.F.R. § 273.9(d)(3)intro. (2014); FWH 4.6.4. Further, the excess medical deduction is only for that portion of medical expenses that is in excess of \$35.00 per month. 7 C.F.R. § 273.9(d)(3)intro. (2014); FWH 4.6.4. Medical expenses for previously acquired charges that have not yet been paid, as well as current payments, are allowed. Medical expense payments made during the certification period are allowable. However, medical expenses paid prior to the certification period are not allowable. FWH 4.6.4.1.

² Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2014); FWH 4.6.7.1. When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2014); FWH 4.6.7.2. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2014); FWH 4.6.7.1.

[REDACTED]

CONCLUSIONS OF LAW

For the reason discussed above, petitioner's September 2015 FS of \$388 was correct.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 19th day of October, 2015

\sSean P. Maloney
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 October 19, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability