



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/169146

PRELIMINARY RECITALS

Pursuant to a petition filed October 05, 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 22, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly terminated the petitioner's FoodShare (FS) benefits effective September 1, 2015 for failing to provide verification of his income.

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: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [redacted]) is a resident of Milwaukee County. The petitioner is a household of three.
2. On July 31, 2015 the agency learned through a State Wage Match that the petitioner was working for [redacted].

3. On August 3, 2015 the agency sent the petitioner a notice requesting employment verification. This verification was due to the agency by August 12, 2015.
4. The petitioner did not provide verification of his employment and income.
5. On August 17, 2015 the agency sent the petitioner another notice that stated his FoodShare (FS) benefits would terminate effective September 1, 2015 for failing to provide employment verification.
6. On September 15, 2015 the petitioner provided a payroll register showing his paycheck dates. The column that indicated the amount of each paycheck stated \$0.
7. On September 21, 2015 the petitioner provided two weekly paystubs.
8. On October 10, 2015 the petitioner provided a completed employment verification of earnings form. The form stated that the petitioner works 25-35 hours per week. He is paid \$12.50 per hour. Thus, the petitioner's monthly gross income is \$1,612.50.
9. The petitioner pays \$500 per month in rent and is responsible for the utilities including heat.
10. The petitioner received \$445.00 in monthly FS benefits in October 2015. This was due to agency error as the agency calculated his weekly income as bi-weekly income. Effective November 1, 2015 the agency properly calculated the petitioner's monthly gross income. This resulted in a monthly FS benefit of \$287.00. This benefit was paid to the petitioner in November.
11. On October 5, 2015 the Division of Hearings and Appeals received the petitioner Request for Fair Hearing.

### **DISCUSSION**

An FS recipient is required to verify information that can affect eligibility. 7 C.F.R. §273.2(f). If the household fails to verify required information by the time limit, the agency may deny the FS. 7 C.F.R. §273.14(g)(3); FS Handbook, Appendix 1.2.1.2. The household has primary responsibility for verifying information, but the agency shall assist the household if the household is cooperating. 7 C.F.R. §273.2(f)(5)(i); Handbook, App. 1.2.1.3. Income is a mandatory verification item. Handbook, App. 1.2.4.7.

In this case the petitioner did not provide the requested verification either within the 10-day time limit or before the case closed. After the case closed the petitioner attempted to provide varication on September 15 and September 21. The petitioner was under the impression that the check register print out provided listed the amount of each check. Unfortunately this register listed an amount of \$0 after each check. Thus, that was insufficient verification. The next verification was paystubs for two weeks of work. The agency requires four weeks of payment history or an employment verification of earnings form. Eventually on October 10, 2015 the petitioner provided an employment verification of earnings form. This form was sufficient verification. The petitioner received FS for October 2015. He will continue to receive FS in November and ongoing.

The agency properly closed the petitioner's case for failing to provider verification of his income. I understand that the petitioner had some difficulty obtaining this information from his employer, however that was not communicated to the agency until after his FS benefits had stopped. At that point the petitioner was able to provide employment verification of earnings, and his FS benefits were only terminated for one month.

I have reviewed the agency's calculations of the petitioner's monthly FS allotment. In calculating the petitioner's FS 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 the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the

adjusted 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). The Standard Deduction for a household size of 1 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii). The agency's calculation of the petitioner's \$287 monthly FS benefit amount is correct given the petitioner's deductions and household size.

### **CONCLUSIONS OF LAW**

The agency properly terminated the petitioner's FoodShare (FS) benefits effective September 1, 2015 for failing to provide verification of his income.

**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 Milwaukee,  
Wisconsin, this 28th day of October, 2015

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\sCorinne Balter  
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 28, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability