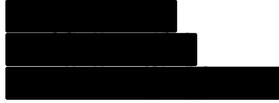




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/169505

PRELIMINARY RECITALS

Pursuant to a petition filed October 16, 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 November 05, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits effective November 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: Simone Johnson
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. Effective November 1, 2015, the Petitioner started receiving Social Security Disability Income (SSDI) of \$1,271/month. Previously, the agency budgeted \$0 income for the Petitioner and \$0 rent expense in determining his benefits.

3. On October 12, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would decrease from \$194/month to \$16/month. This was based on his income from SSDI, \$0 rent expense and a maximum utility standard.
4. On October 16, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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 does not dispute that his SSDI income is \$1,271/month. He testified that he does have a rent expense of \$400/month including utilities. He also has a phone expense of \$50/month.

The agency indicated that it does not have record of the rent expense being previously reported. The agency indicated that the Petitioner can submit verification of rent expense and the agency will update his case. The Petitioner was advised that a new determination will be issued by the agency upon submission of his verification and if he disagrees with that new determination, he must file a new appeal.

I reviewed the agency's determination for November 1, 2015 based on the information available at the time. Specifically, the agency counted the Petitioner's SSDI benefits and gave the Petitioner a standard deduction as well as the utility deduction. Based on the evidence, I conclude that the agency properly determined the Petitioner's FS benefits effective November 1, 2015 based on the information known at the time.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits effective November 1, 2015 based on the information known at the time.

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 8th day of December, 2015

\sDebra Bursinger
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 December 8, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability