



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/170170

PRELIMINARY RECITALS

Pursuant to a petition filed November 17, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 10, 2015, at Madison, Wisconsin.

The issue for determination is whether the respondent correctly denied petitioner’s FS application due to income exceeding program limits.

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:

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a resident of Dane County.
2. Petitioner applied for FS benefits on October 19, 2015. His application was denied by the respondent on November 17, 2015.

3. Petitioner's November, 2015 income included earned income of \$1,428.23 and Unemployment benefits in the amount of \$1,591.00.

DISCUSSION

The gross income limit for a 1-person household under the categorical eligibility table is \$1,962 per month. *FoodShare Wisconsin Handbook*, § 8.1.2. The county agency correctly determined that the petitioner's gross monthly income in the month of November, 2015, was \$3,019.23. That was based upon petitioner's receipt of a final earned income paycheck in the amount of \$1,428.23, plus Unemployment benefits in the amount of \$1,591. See 7 C.F.R. § 273.10(c)(3). His household was ineligible at application, and the agency correctly denied his application.

Petitioner argues that the earned income should not be counted, since the income was derived from work actually performed in October, 2015. FoodShare policy directs:

Earned Income is gained from the performance of service, labor, or work. Earned income includes, but is not limited to salaries, wages, commission, tips, or payments for services. Count earned income only for the month in which it is received, except when the average number of payments increase due to mailing cycle adjustments.

FoodShare Wisconsin Handbook, § 4.3.2.1.

It matters not that the earned income received in early November was for work performed in October. The month of receipt is the determining factor. As such, the respondent correctly counted the income for the month in which it was received, November.

CONCLUSIONS OF LAW

That the county agency correctly denied the petitioner's October 19, 2015, application for FS due to income in excess of program limits.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be, and the same hereby 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 Madison,
Wisconsin, this 29th day of December, 2015

\sPeter McCombs
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 29, 2015.

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