



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/171363

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2016, 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 February 10, 2016, at Madison, Wisconsin.

The issue for determination is whether the agency erred in its reduction of petitioner's FoodShare effective January 1, 2016 to \$207 per month following an increase in petitioner's W2 payment.

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

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Dane County.
2. Petitioner was an ongoing FoodShare recipient. She also received W2 benefits.
3. Petitioner's W2 benefit increased from \$82 to \$653 effective January 2016.

4. The agency recalculated the monthly allotment for petitioner counting the \$653 for W2 unearned income.
5. Petitioner was sanctioned by the W2 program in January and only received \$543 in January due to non-participation and failure to meet some program requirements.
6. Petitioner pursued a fact-finding appeal with the W2 agency and the decision to reduce the W2 payment was affirmed.
7. On 12/18/16 the agency sent a notice to petitioner informing her that her FS would drop from \$357 to \$207 effective 1/1/16.
8. Petitioner appealed.

**DISCUSSION**

Petitioner’s arguments in this matter pertain to the agency’s use of the \$635 W2 payment rather than the \$543 amount paid in January. Petitioner does not dispute that her W2 payment in January was increased significantly from the previously paid \$82.

Petitioner’s first argument at hearing was that she felt it was unfair for the W2 agency to sanction her. She expressed great dissatisfaction with the worker(s) at the W2 agency and their administration of her case. This argument is misplaced. This matter relates to the reduction of the FS by the county agency and not the merits of the W2 agency’s finding of non-participation and action to sanction petitioner by reducing the W2 payment. Petitioner did pursue an initial review of this W2 agency action. But, after initially affirmed it appears that petitioner has not pursued further appeal to DHA of that W2 decision. That would be to correct forum to address the merits of the sanction itself.

Petitioner’s second argument was that it was not fair to use the full W2 amount to calculate FS rather than the reduced amount following the sanction due to petitioner’s non-participation. The petitioner’s gross income types and amounts are not in dispute. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1. The agency budgeted the amount to which petitioner is entitled to receive each month: \$635. That she did not receive that amount in January was due to a determination of non-participation and a sanction for a single month. In February, petitioner would have been eligible for the \$635 again if not sanctioned. It is not error for the agency to expect petitioner to comply with program rules and receive the full amount. The only other alternative is for the agency to plan for petitioner’s non-participation and noncompliance with the rules. Such a manner of managing a program is not logical. The county agency did not err with regard to the calculation of FS. Petitioner’s primary complaint appears to be with the W2 agency.

**CONCLUSIONS OF LAW**

The agency did not err in its reduction of the petitioner’s FS allotment to \$207.

**THEREFORE, it is ORDERED**

That this 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 Madison,  
Wisconsin, this 3rd day of March, 2016

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\sJohn P. Tedesco  
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 March 3, 2016.

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