



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/173781

PRELIMINARY RECITALS

Pursuant to a petition filed April 21, 2016, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the La Crosse County Dept. of Human Services to reduce FoodShare benefits (FS), a hearing was held on May 19, 2016, at La Crosse, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether the county must count petitioner's veteran's pension income in determining FS.

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [Redacted]
La Crosse County Dept. of Human Services
P.O. Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of La Crosse County.
2. Petitioner receives FS as a one-person household; he received the monthly maximum \$194 through March, 2106. In early March petitioner notified the county that he now is receiving \$846 monthly from his veteran's pension based on disability.
3. The income was budgeted for April, 2016 FS. By a notice dated March 14, 2016 the county informed petitioner that FS would be reduced to \$16 effective April 1, 2016.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt 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. 7 C.F.R. §273.9(d)(1); FS Handbook, Appendix 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); FS Handbook, App. 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); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 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)(6); FS Handbook, App. 4.6.7.

Obviously the addition of the pension income caused the reduction. Under FS rules the veteran's pension must be budgeted in determining the monthly amount. Pensions, veterans', and disability payments are specifically mentioned as countable income in the Code of Federal Regulations, 7 C.F.R. §273.9(b)(2)(ii). See also the FS Handbook, App. 4.3.4.2. The Division of Hearings and Appeals cannot ignore the clear mandate that such income be counted.

This office also has no authority to order an FS amount above the federally mandated calculation. I reviewed the calculation, and the result is an issuance of \$16 monthly. As noted during the hearing, the original calculation did not include a shelter expense, but if petitioner's monthly rent is added to the calculation it would not change the result. The shelter deduction is the cost of shelter above one-half of net income after the initial deductions. For petitioner net income is \$846 minus the \$155 standard deduction, or \$691 (petitioner does not have earned income, medical expenses above \$35 monthly, dependent care, or support payments). One-half of \$691 is \$345.50, and petitioner's shelter expense is below \$345.50, so he would not get a shelter deduction.

I must conclude that the county correctly reduced petitioner's FS to \$16.

CONCLUSIONS OF LAW

The county correctly added petitioner's veteran's income to his FS budget resulting in a reduction from \$194 monthly to \$16.

THEREFORE, it is

ORDERED

That the petition for review 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 24th day of May, 2016

\sBrian C. Schneider
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 May 24, 2016.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability