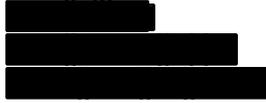




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: FOO - 174788

PRELIMINARY RECITALS

Pursuant to a petition filed on June 1, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services regarding FoodShare benefits (FS). The hearing was held on July 12, 2016, by telephone.

The issue for determination is whether the agency erred in the determination of his current FS allotment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted]
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Brown County.
2. Petitioner applied for FS on 2/12/16. Petitioner had previously resided in Missouri and received FS in that state.

3. The agency sought verification from the state of Missouri that FS was closed in that state. The agency did not receive that verification and denied the application on 3/14/16.
4. Petitioner then applied for FS in Wisconsin on 5/2/16. On 5/4/16, the agency received income verification (pay check stubs) and the verification of closure of FS in Missouri.
5. FS was determined based on the income information provided to the agency. The agency budgeted gross earned income of \$1,007.36 for the group of one.
6. Petitioner was enrolled for May 2016 going forward for \$16 per month.
7. Petitioner filed a request for hearing on June 6, 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 was, at the relevant time of the agency action, \$155 per month for a one person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin 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); FoodShare Wisconsin 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); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin 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)(5); FoodShare Wisconsin Handbook, App. 4.6.7.

Petitioner did not dispute the income set forth in finding of fact number 4. The gross income limit for a household of one is \$1,962. See *FS Handbook* §§ 4.2.1, 8.1.1. The net income limit for a household of one is \$961. *FS Handbook*, App. 8.1.1.

Petitioner's household income is below the gross income limit. This is clear from the testimony & exhibits. The representative from the Department stated so during the hearing. Thus, he is categorically eligible for FS. After the earned income deduction (\$201.47) and the standard deduction (\$155 - there is no excess shelter deduction) petitioner's net income was \$850.89. See budget screen in exhibit #3. According to *FS Handbook* 8.1.2, the FS allotment for a 1-person household with a net income over \$850.89 was \$16. I cannot find an error in the calculations of the Department. In fact, the allotment would remain at \$16 even if the net income dropped to \$591

Petitioner asserted that he received more FS in Missouri. That does not mean that the Wisconsin agency has made an error. Petitioner did not identify any inaccurate information or application of rules. If petitioner's circumstances change he may provide updated income information to the agency and perhaps his allotment will change.

CONCLUSIONS OF LAW

The Department did not err in determining the FS allotment to be \$16.

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, **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 1st day of August, 2016

\s _____
John 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 August 1, 2016.

Brown County Human Services
Division of Health Care Access and Accountability