



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO-174883

PRELIMINARY RECITALS

Pursuant to a petition filed June 9, 2016, under Wis. Admin. Code, §HA 3.05(1), to review a decision by Milwaukee Enrollment Services to deny FoodShare (FS), a hearing was held on July 12, 2016, by telephone.

The issue for determination is whether petitioner's income was over the FS limit.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED]
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for FS for a four-person household on May 31, 2016. She reported monthly employment income of \$2,457.99 and also Supplemental Security Income (SSI) of \$816.78. Her monthly rent is \$750 and she pays utilities. She does not pay for child care.
3. By a notice dated June 3, 2016 the agency denied FS because net income was over the FS limit.

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 \$168 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.

The gross income limit for a household of four is \$4,042. Handbook, App. 8.1.1. The net income limit for a household of four is \$2,021. Handbook, App. 8.1.1.

Petitioner's household income of \$3,274.77 was under the gross income limit, but after taking allowable deductions net income was \$2,615.18, above the net income limit. The big problem was that petitioner received no shelter deduction. After taking the earned and standard deductions, the remaining income was \$2,615.18. The shelter deduction is obtained by comparing one-half of that remaining income to the shelter costs. One-half of the remaining income was \$1,307.59, and shelter costs were \$750 rent plus \$458 utilities totaling \$1,208. Because shelter costs were less than the one-half income, there was no shelter deduction, so the net income compared to the limit was the full \$2,615.18.

Petitioner testified that her expenses leave her with virtually nothing left for groceries. She has car expenses and has to pay for medical insurance. Car expenses are not a deduction for FS, and the medical expenses cannot be deducted because petitioner is not elderly or disabled.

I must conclude that the denial was correct. The Division of Hearings and Appeals does not have authority to ignore the federal rules for determining FS eligibility. I can only allow the income deductions that the law allows.

CONCLUSIONS OF LAW

Petitioner's net income was above the FS limit when she applied in May, 2016.

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, **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 15th day of July, 2016

\s _____
Brian 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 July 15, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability