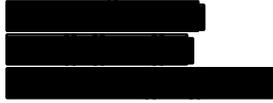




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: FOO - 175682

PRELIMINARY RECITALS

Pursuant to a petition filed on July 21, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on August 16, 2016, by telephone from Madison, Wisconsin. The record was held open 10 days to allow for the submission of petitioner’s pay stubs; the documentation was received timely.

The issue for determination is whether petitioner’s household income is “contractual.”

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]
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. Petitioner receives FS for a two-person household. Petitioner works for the [Redacted]

3. By a notice dated July 19, 2016, the agency informed petitioner that FS would be decreased to \$16 in August 1, 2016. The notice informed petitioner that it budgeted her monthly earned income from [REDACTED] at \$1,896.07.

DISCUSSION

Petitioner is appealing the FS policy covering employees who do not work the entire year, in particular school employees. The FS Handbook, Appendix 4.3.2, no. 13 provides as follows:

Contractual income that is the food unit's annual income (intended to provide support for the entire year), and is not paid on an hourly or piece work basis, should be prorated over 12 months. Contractual income that is not the food unit's annual income (intended to provide support for the HH for only a portion of the year), and is not paid on an hourly or piece work basis, shall be prorated over the period the income is intended to cover.

Example 3: Joe works for public school as a Teacher's Aide. Joe's worked there for the last 3 years and receives a 9 ½ month contract every August. He earns \$13,480.50 annually. He lives off his salary as a Teacher Aid for the full year and does not supplement his income during the summer. Average his income over 12 months = \$1,123.40.

Example 4: Nancy works for the public school as a nurse part-time. She receives a contract for 9 ½ months every August. In the summer she supplements her income with a job at the Girl Scout campgrounds in the first aid tent. Average Nancy's school income over 9 ½ months because her contract income is not her annual income.

The pay stubs from the school district included in the file make petitioner's employment look precisely like the type of income described as contractual in the above example; I note that the paystubs specifically indicate "Pay Rate: \$XXXXX.XX Contract". From the record I have petitioner does not receive unemployment compensation during the summer months, which would suggest that the school income is meant to be annual, although paid in only ten months per year. Petitioner had a summer job last year, and questioned why she would qualify for benefits then, but not this summer, when she did not have a summer job.

Petitioner's 2015 and 2016 summers are exactly described in the above examples. I conclude that unless petitioner supplements her school income in the summer, it must be budgeted as contractual income for FS purposes.

CONCLUSIONS OF LAW

For current FS purposes the earned income petitioner receives must be considered contractual income unless it is supplemented by other employment during the summer.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same 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 16th day of September, 2016

\s _____
Peter 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 September 16, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability