



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: FOO - 176246

PRELIMINARY RECITALS

Pursuant to a petition filed August 17, 2016, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Marinette County Dept. of Human Services to discontinue FoodShare benefits (FS), a hearing was held on September 7, 2016, by telephone.

The issue for determination is whether the county correctly added a portion of petitioner’s daughter’s social security to petitioner’s monthly income.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: 
Marinette County Dept. of Human Services
1605 University Drive
Marinette, WI 54143

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Marinette County.
2. Petitioner receives \$1,668 in monthly social security. From that the Medicare Part B premium is deducted, leaving him with \$1,546 monthly net income.

3. In the spring, 2016, petitioner received FS as a one-person household. At the time his daughter was on his case for Medical Assistance purposes but not for FS.
4. In late March, 2016 petitioner's case was updated to show that he no longer paid child support. As a result he no longer received a child support deduction for his FS calculation.
5. By a notice dated March 14, 2016, the county informed petitioner that FS would be reduced to \$16 effective April 1, 2016.
6. In May, 2016 petitioner's daughter was taken off his case and put on her mother's case.
7. In July petitioner reported that he receives his daughter's monthly social security of \$834 per month. He gives \$410 to her mother and keeps the rest. The county then added the \$434 that he keeps to his FS budget, and as a result FS was closed effective September 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. The maximum shelter deduction is \$490 unless the household includes an elderly or disabled individual; in those cases there is no shelter cap. Handbook, App. 8.1.3. and 4.6.7.1.

When I review petitioner's FS budget history, it becomes apparent that the reason petitioner received \$194 FS was that the county was deducting his child support twice. In the budget for March, 2016, petitioner's gross income was shown to be \$1,258 (\$1,668 minus the \$410 child support obligation), and then in the calculations he received another \$410 child support deduction. The result, then, after other deductions including the shelter deduction, was net income of less than zero, so petitioner received maximum FS of \$194. See page 4 of the county exhibits.

For April, the worker simply corrected the gross income to be \$1,668. The child support deduction remained. After the standard, child support, and shelter deductions, net income was \$604.15. A person with that net income would receive \$16 in FS. See page 5 of the county's exhibits.

Effective September 1, 2016, the county budgeted \$1,546 social security and \$424 from petitioner's daughter's social security. The only deductions were the standard one for \$155 and a shelter deduction of \$85.50. The shelter deduction was much smaller than earlier months because, with the loss of the child support deduction, net income before the shelter deduction was calculated was much higher. The net income after the shelter deduction was \$1,815, and a one-person household with that net income is ineligible for FS. See FS Handbook, App. 8.1.2.

The county action in this case was correct. While a child's social security usually is attributed to the household in which the child primarily resides, in this case petitioner receives and controls \$424 of the child's social security income. Adding the income to the FS budget results in the loss of \$16 per month FS.

CONCLUSIONS OF LAW

The county correctly closed FS because petitioner's monthly income is above the FS limit.

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 13th day of September, 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 September 13, 2016.

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