



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 200682

PRELIMINARY RECITALS

Pursuant to a petition filed on December 7, 2020, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Sauk County Dept. of Human Services regarding FoodShare benefits (FS), a hearing was held on January 6, 2021, by telephone.

The issue for determination is whether the agency correctly counts a child's social security as income.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED]
Sauk County Dept. of Human Services
PO Box 29
Baraboo, WI 53913

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Adams County. The Sauk County agency handles petitioner's case as part of the Capital Consortium.
2. Petitioner receives FS for herself and her granddaughter. The agency has been counting as income for FS both petitioner's and the child's social security.

3. In November, 2020, petitioner reported that an agency named [REDACTED] was appointed as the child's guardian, and that her social security would be sent to the guardian. After reviewing a copy of the guardianship papers, the FS agency left the child's social security in the FS budget because there was no limitation on the use of the income. Petitioner appealed the inaction.

DISCUSSION

Under FS rules, all household income is budgeted in determining the monthly allotment. 7 C.F.R. §273.9(b). Children's income is budgeted in the household in which the child receives FS.

At this point there is no limitation on the disbursal and use of the child's income in the guardianship papers or in any written document issued by the guardian. As a result the agency has no choice but to continue to budget it on petitioner's case. Petitioner testified that [REDACTED] is not giving her any money, but she also has not made any request or received any denial. Thus, at this point, the issue is not ripe for review. Without some clear limitation on the disbursal of the money, the monthly income must continue to be budgeted for FS purposes.

CONCLUSIONS OF LAW

The agency correctly continues to budget petitioner's granddaughter's social security because there is no limitation on the new guardian's disbursal and use of the money.

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, 4822 Madison Yards Way, 5th Floor North, 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.

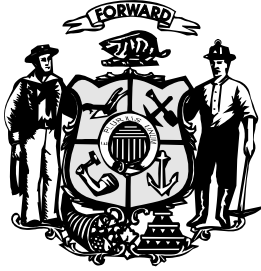
APPEAL TO COURT

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 8th day of January, 2021

\s _____
Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
5th Floor North
4822 Madison Yards Way
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 8, 2021.

Sauk Cty Department of Human Services
Division of Health Care Access and Accountability