



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/170172

PRELIMINARY RECITALS

Pursuant to a petition filed November 17, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 15, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly reduced the petitioner’s monthly FoodShare (FS) benefits from \$23 to \$16 effective November 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] |
[REDACTED]
[REDACTED]

Respondent:

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

By: Simone Johnson
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She is the only person in her household. She is an elderly, blind, or disabled household.

2. On September 21, 2015 the petitioner completed a renewal for her FoodShare (FS) benefits. During her renewal she reported that she does not receive energy assistance, and that she is responsible for her electric and telephone. Her heat is included in her rent.
3. The petitioner's monthly gross income is \$1,536.90 from social security. She pays \$381 in her monthly rent. Her medical costs are \$144.01 each month.
4. On October 16, 2015 the agency sent the petitioner a notice stating that effective November 1, 2015 her monthly FoodShare (FS) benefits were decreasing from \$23 to \$16.
5. On November 17, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires that the county start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 1 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I have reviewed the agency's calculations in this case. The agency has allowed for the \$155 standard deduction. In addition, they have deducted the petitioner's excess medical expenses, and the excess shelter deduction. The reason the petitioner's monthly FS benefits decreased is the 2014 farm bill. Prior to the 2014 Farm Bill the Wisconsin Department of Administration (DOA) issued an annual energy assistance payment of \$1 to all FS households who were not already receiving energy assistance. This allowed Wisconsin to grant all FS households the Heating Standard Utility Allowance (HSUA) of \$458. The actual utility usage did not matter. The 2014 Farm Bill changed this practice. Under this bill a household has to receive a WHEAP or energy assistance payment of greater than \$20 to receive the HSUA of \$458. 7 U.S.C. 2014(e)(6)(C)(ii)(I) Therefore, "households that have not received WHEAP will receive the appropriate utility standard based on the utility obligation(s) incurred by the household." *FS Wisconsin Handbook* 4.6.7.3.

In this case the petitioner is responsible for her electric and phone. This is two or more utilities, and the agency properly credited the petitioner with the limited utility allowance. The agency's calculations are correct, and they properly reduced the petitioner's monthly FS benefits from \$23 to \$16 effective November 1, 2015.

CONCLUSIONS OF LAW

The agency correctly reduced the petitioner's monthly FoodShare (FS) benefits from \$23 to \$16 effective November 1, 2015.

THEREFORE, it is

ORDERED

That the petition 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, Madison, Wisconsin 53703, **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 Milwaukee,
Wisconsin, this 22nd day of December, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
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 December 22, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability