



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/170366

PRELIMINARY RECITALS

Pursuant to a petition filed November 24, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on January 26, 2016. At petitioner's request a Hearing scheduled for January 5, 2016 was rescheduled.

The issue for determination is whether it was correct to decrease petitioner's FS allotment from \$194/month to \$16/month effective November 1, 2015.

There appeared at that time via telephone 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: [REDACTED] ESS
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County, Wisconsin.
2. Petitioner's was receiving an FS allotment of \$194.00 per month. Exhibit #1.
3. In September 2015 petitioner reported that she begin a new job at [REDACTED]; in October 2015 petitioner reported that her job at [REDACTED] ended and that she had started working at [REDACTED]; these jobs resulted in an increase in petitioner's household income. Exhibit #1.
4. Petitioner's monthly FS allotment decreased from \$194.00 per month to \$16.00 per month effective November 1, 2015 due to increased household income. Exhibit #1.

DISCUSSION

When calculating a monthly FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2016); *Foodshare Wisconsin Handbook* ["FWH"] 4.3.2. For purposes of FS *income* includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2016); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction¹; dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction²; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2016); FWH 4.6.1. Petitioner was allowed all deductions applicable to her.

Petitioner does not dispute that under the law, based on her household income and allowable deductions, she is entitled to only \$16.00 per month in FS effective November 1, 2015.

Petitioner testified sincerely that she has educational expenses for which she receives no assistance, that her apartment caught fire and burned to the ground (she testified lost her computer in the fire, had no renter's insurance, and had to use her tuition money for a deposit on another apartment), that she was in car accident, and that she slipped and fell and sprained her left wrist. Petitioner circumstances are unfortunate and sympathetic. However, the law dictates a November 2015 FS allotment of \$16 per month for petitioner.

¹ The excess medical deduction is only for members of the FS household who are elderly, blind, or disabled. Medical expenses incurred by a member of the FS household who is not elderly, blind, or disabled do not qualify for the excess medical deduction. Further, the excess medical deduction is only for that portion of medical expenses that is in excess of \$35.00 per month. 7 C.F.R. § 273.9(d)(3)intro. (2016); FWH 4.6.4.

² Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2016); FWH 4.6.7.1. When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2016); FWH 4.6.7.3. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2016); FWH 4.6.7.1.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to decrease petitioner's FS allotment from \$194/month to \$16/month effective November 1, 2015.

NOW, 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, 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 Madison,
Wisconsin, this 2nd day of February, 2016

\sSean P. Maloney
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 February 2, 2016.

Brown County Human Services
Division of Health Care Access and Accountability