



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/170650

PRELIMINARY RECITALS

Pursuant to a petition filed December 07, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 15, 2016, at Sheboygan, Wisconsin.

This hearing was originally scheduled for January 7, 2016. On the date of hearing, the Petitioner indicated that she was not feeling well and she asked to reschedule.

The hearing was rescheduled to February 9, 2016. Because the Petitioner was going into the hospital, she asked for another hearing date.

The hearing was then rescheduled to March 15, 2016, and took place on that date.

The issue for determination is whether the Sheboygan County Department of Human Services (the agency) correctly calculated the Petitioner's FoodShare benefits, effective December 1, 2016.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted], Economic Support Supervisor
Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. On November 18, 2015, the agency sent the Petitioner a notice, advising her that her FoodShare benefits would be decreased from \$47.00 to \$16.00 per month, effective December 1, 2015. (Exhibit 3)
3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 7, 2015. (Exhibit 1)
4. Beginning October 2, 2015, the Petitioner began receiving \$1,476.00 per month in Social Security Income. Her income increased, due to the death of her husband. (Exhibit 2)
5. Petitioner is 76 years old; is a household of one person and pays rent, in the amount of \$713.00 per month. She has a heating expense. (Exhibit 3)
6. As of December 1, 2015, the Petitioner lost her Medicare premium assistance. As such, she would have had to have had an out of pocket medical expense for her Medicare Part B Premium. Per CWW records, that premium is \$121.80 per month. (See Exhibit 3)

DISCUSSION

The following deductions are applied in determining a household's FoodShare allotment, which is based net income:

- (1) a standard deduction –

This is \$155 per month for a household of 1-3 people, 7 *CFR* § 273.9(d)(1);
 \$168 for four people
 \$197 for five people
 \$226 for six or more people

- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 *CFR* § 273.9(d)(2);

This does not apply to Petitioner, because she does not have any earned income.

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 *CFR* § 273.9(d)(3);

For Petitioner this works out to be:

\$121.80 Medicare Part B premium - \$35.00 = \$86.80

- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and

This does not apply to Petitioner, because she did not report any such expenses.

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 *CFR* § 273.9(d)(5).

The standard utility allowances are as follows:

HSUA – Heating Standard Utility Allowance	\$458
LUA – Limited Utility Allowance	\$293
EUA – Electric Utility Allowance	\$119
WUA-Water and Sewer Utility Allowance	\$78
FUA- Cooking Fuel Allowance	\$46
PUA- Phone Utility Allowance	\$30
TUA – Garbage and Trash Utility Allowance	\$20

There is a cap of \$504.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

It is undisputed that the Petitioner is entitled to the full HSUA of \$458

FSH, §§ 4.6.7.1 and 8.1.3.

Applying the applicable deductions to Petitioner’s income we have the following net income calculation, effective July 1, 2015:

Gross Income	\$1476.00	Rent	\$713.00
No Earned Income Deduction		HSUA	+\$458.00
Standard Deduction	-\$155.00	-50% net income	-\$617.10
Medical Expenses exceeding \$35	-\$86.80	<u>before shelter deduction</u>	
No Dependent Care Expenses		Excess Shelter Expense:	\$553.90
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Net Income before shelter deduction	\$1234.20		
Excess Shelter Expense	- \$553.90		
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Net Income	\$680.30		

Households of with a net income of \$680.30 eligible for \$16.00 per month in Foodshare benefits. *FSH §8.1.2*

NOTE: If Petitioner accumulates additional out of pocket medical expenses, she should report them to the agency, because they could increase her FoodShare allotment.

CONCLUSIONS OF LAW

The agency correctly calculated the Petitioner’s FoodShare allotment, effective December 1, 2016.

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.

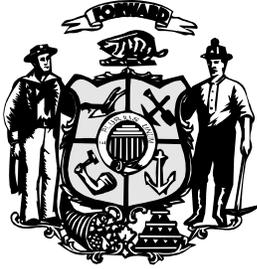
APPEAL TO COURT

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 29th day of March, 2016

\sMayumi M. Ishii
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 March 29, 2016.

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