



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/170811

PRELIMINARY RECITALS

Pursuant to a petition filed December 16, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on March 29, 2016, at Fond Du Lac, Wisconsin.

The issue for determination is whether Petitioner's FoodShare allotment has been correctly calculated.

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]
Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Fond Du Lac County.
2. Petitioner filed this appeal to question the amount of his FoodShare allotment. He was notified that it was to be \$32.00 as of December 1, 2015. It had been \$49.00 in October and November 2015.
3. Petitioner has income of \$763.48; this consists of Social Security's SSI and related State benefits.

4. The agency used the following deductions in determining Petitioner's FoodShare allotment - a standard deduction of \$155.00. At the time of the calculations involved here Petitioner was paying \$80.00 per week in rent and received a standard telephone expense allowance of \$30.00. He reported no out of pocket medical expenses.
5. Petitioner's FoodShare household consists of himself.

### DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FoodShare household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

The gross income limit for a household of 1 was \$1962.00 for late 2015. *FSH, §8.1.1.1, Release 14-03.* Petitioner's gross income is less than this.

If a household passes the gross income test, the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$155 per month for a household of 1 person, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction – the utility expense requires that a household have an actual utility obligation and is a standard deduction based on that obligation (e.g., \$30 where it is phone only); the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.3 and 8.1.3.*

In reviewing the calculations effective December 1, 2015 I do not find any errors.

At the hearing Petitioner reported an increase in his rent expense. It increased to \$450.00 per month, apparently in January 2016. Petitioner indicated that he reported this on January 12, 2016 but the agency has no record of that report. It should also be noted that changes in income and expenses and that a change reported in one month cannot affect benefits until the next month. *FSH, §6.1.3.3.* As there is no record of the report of the increase until the March 29 date of this hearing it may have an effect on April 2016 benefits. If Petitioner or the agency can find proof of a January 2016 report of the increase the agency can update the calculations effective February 2016 but without proof of the report this cannot be ordered here. I also note that this appeal was filed in December 2015 so the January 2016 rent increase is not properly the subject of this hearing.

### CONCLUSIONS OF LAW

That Petitioner's FoodShare allotment was correctly calculated for December 2015.

**THEREFORE, it is**

**ORDERED**

That this appeal 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 6th day of April, 2016

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\sDavid D. Fleming  
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 April 6, 2016.

Fond Du Lac County Department of Social Services  
Division of Health Care Access and Accountability