



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/170894

PRELIMINARY RECITALS

Pursuant to a petition filed December 17, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on January 19, 2016, at Kenosha, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner’s FS benefits effective January 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:

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a resident of Kenosha County.
2. On November 23, 2015, the Petitioner contacted the agency to complete his FS renewal. He reported no change in address or household composition. He reported his only income is SSI of

\$733/month. He reported rent of \$400/month which includes heat and electric. He reported a phone utility expense.

3. On December 1, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits would be \$62/month effective January 1, 2016. This was based on SSI of \$733/month, rent of \$400/month including utilities, a phone utility standard and the standard deduction.
4. On December 17, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

On April 28, 2014, a change was made to the standard utility allowance/deduction available to household receiving FS benefits. See DHS Operations Memo 14-16. Households that have received a payment from the Wisconsin Housing Energy Assistance Program (WHEAP) in the previous 12 months receive the full Housing Standard Utility Allowance (HSUA) of \$458/month. Households that pay two or more non-heat qualifying utility expenses (phone, water, sewer, electric, cooking fuel, or trash) receive a Limited Utility Allowance (LUA) of \$293/month. Households that pay only a non-heat electric bill receive an Electric Utility Allowance (EUA) of \$119/month. Household that pay only water, sewer, septic tank installation/maintenance or wastewater treatment bills receive a Water and Sewer Utility Allowance (WUA) of \$78/month. Household that pay only a cooking fuel expense receive a Fuel Utility Allowance (FUA) of \$46/month. Households that pay only a telephone expense, including cell phones, receive a Phone Utility Allowance (PUA) of \$30/month. Households that pay only a trash or garbage bill receive a Garbage and Trash Utility Allowance (TUA) of \$20/month.

Petitioner did not dispute his income or rent as budgeted by the agency. He testified that he does help his landlord when he can in paying electric and gas. However, his electric and gas is generally included in his rent and he does not have any records regarding when or how much he paid his landlord for any electric or other utility expenses.

I reviewed the agency budget screens. The agency properly determined SSI income and applied the standard deduction of \$155 for an adjusted income of \$578. Then the agency applied a shelter deduction of \$141 (\$400 rent + \$30 phone expense x 50% of adjusted income) for net adjusted income of \$437. Per the FS regulations, the agency subtracted \$131.10 (30% of net adjusted income) from \$194 (maximum FS allotment for a household of one) to obtain the Petitioner's FS allotment of \$62.

I conclude the agency properly followed the FS regulations in determining the Petitioner's FS benefits and properly budgeted Petitioner's income, shelter and utility expenses.

I note that the Petitioner inquired at the hearing about adding his son to his case if he comes to live with him. Petitioner was advised to contact the agency if his son moves in and the agency will re-determine benefits at that time.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits effective January 1, 2016.

THEREFORE, it is **ORDERED**

That the Petitioner's 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 9th day of February, 2016

\sDebra Bursinger
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 9, 2016.

Kenosha County Human Service Department
Division of Health Care Access and Accountability