



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/171142

PRELIMINARY RECITALS

Pursuant to a petition filed January 06, 2016, 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 February 02, 2016, at Milwaukee, 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:   
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner filed this appeal to question a reduction of her FoodShare allotment. It was reduced from \$194.00 for December 2015 to \$52.00 for January 2016 following a case renewal.
3. Petitioner’s FoodShare household size is one.
4. Petitioner’s gross income is \$816.78 and consists of SSI payments.

5. The agency used the following deduction in determining Petitioner's FoodShare allotment - a standard deduction of \$155.00 and a shelter deduction of \$189.11 based on rent of \$520.00. No utility expenses were included as the agency was informed that they are included in Petitioner's rent.

### 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 FS 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 is currently \$1962.00. *FSH, §8.1.1.15 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 \$165 per month for a household of 4 persons, *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 calculation of Petitioner's FoodShare allotment, I do not find any errors. What changed here is that the utility expense used to be an automatic deduction for all households but that deduction was changed by the Federal government and now requires that a person actually pay utility expenses or have an energy assistance payment in order to have a utility deduction.

Petitioner did, however, report a phone expense at the time of the hearing. There is a standard utility allowance for a phone of \$30.00. *FSH, §8.1.3.* A reported change in income and/or expenses reported in one month cannot affect benefits until the next month. *FSH, §6.1.3.3.* As Petitioner reported the phone expense at the hearing in early February 2016 it can possible affect March 2016 benefits.

Finally, Petitioner also indicated that she has an arrearage due a utility company and wonders if that can be deducted. The FSH specifically excludes arrearages as a shelter deduction. See *FSH, §4.6.7.2.*

### CONCLUSIONS OF LAW

That the available evidence indicates that the calculation of Petitioner's FoodShare allotment as of January 1, 2106 is correct.

**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 25th day of February, 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 February 25, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability