



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/171262

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 04, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly calculated the Petitioner's FoodShare allotment 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: , Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. On November 30, 2015, the Petitioner contacted the agency to complete a FoodShare renewal. (Exhibit 6, pg. 9)

3. On December 2, 2015, the agency sent the Petitioner a Notice of Proof Needed requesting verification of her out-of-pocket medical expenses. The verification was due on December 10, 2015. (Exhibit 6, pgs. 10-13)
4. On December 18, 2015, the agency sent the Petitioner a notice, advising her that her benefits would be ending effective January 1, 2015, because she did not complete her renewal. (Exhibit 6, pgs. 19-22)
5. On December 21, 2015, the agency sent the Petitioner another Notice of Proof Needed requesting verification of her medical expenses by December 30, 2015. (Exhibit 6, pgs. 23-26)
6. On December 28, 2015, the Petitioner contacted the agency to provide verification of medical expenses and to advise the agency that she would be producing additional documentation after her doctor's appointment in January 2016. The Petitioner declined to have the due date for verification extended. (Exhibit 6, pg. 9)
7. On December 29, 2015, the agency sent the Petitioner a notice, indicating that as of January 1, 2016, the Petitioner would be receiving FoodShare benefits in the amount of \$66 per month. (Exhibit 6, pgs. 27-31)
8. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 6, 2016. (Exhibit 1)
9. Petitioner is a household of one person. (Exhibit 6, pg. 6)
10. Petitioner receives a net SSI Disability payment of \$733 per month and State SSI in the amount of \$83.78, so her total unearned income is $\$733 + \$83.78 = \$816.78$. (Exhibit 6, pgs. 76 and 77)
11. Petitioner pays rent in the amount of \$110.00 per month. (Exhibit 6, pg. 29)
12. The agency determined that the Petitioner has a heating expense. (Exhibit 6, pgs. 5, 29, and 75)
13. Petitioner is prescribed Allegra, Systane eye drops, Eucerin Lotion, multi-vitamins, and Miralax. (Exhibits 2 and 7)
14. Petitioner incurred a \$553 expense for glasses on January 4, 2016. This is \$46.08 per month ($\$553 / 12$ months in the certification period) (Exhibit 3)
15. Petitioner incurred a .50 expense from a community clinic, which is a regularly occurring expense. (Exhibit 10)
16. Petitioner pays \$16.50 per month for the aforementioned vitamins (\$33.00 for two months supply). (Verbal statement of [REDACTED])
17. Petitioner incurred \$77.49 in prescription expenses between June 2015 and December 2015 for the following medications:

Triamcinolole CR/Eucerin	\$1.00 per fill
Aspirin - zero co-pay	
Polyethylene Glycol (Miralax)	\$1.00 per fill
Zolipidem -	\$1.00 per fill
MI-Acid -	\$.50 per fill
Topiramate -	\$1.00 per fill
Bupropion-	\$1.00 per fill
Oxycodone/Acetaminophen -	\$1.00 per fill
Hydrocodone/Acetaminphone -	\$1.00 per fill

- Refresh Tears - \$.50 per fill
- Alavert – \$.50 per fill
- Clonazepam - \$1.00 per fill
- Voltaren - \$3.00 per fill
- Nasonex - \$3.00 per fill
- Proair Inhaler - \$3.00 per fill
- Fluconazole – no co-pay
- Omeprazole - \$1.00 per fill
- Hydrocortisone - \$1.00 per fill
- Diphenhydramine - \$.50 per fill
- Virtussin - \$.50 per fill
- Vitamin D – no co-pay
- Linzess -\$3.00 per fill
- Levofloxacin - \$1.00 per fill
- Fluticasone - \$1.00 per fill
- Loratidine-D - \$.50 per fill
- Azithromycin - \$1.00 per fill
- Prednisone - \$1.00 per fill
- Promethazine - \$1.00 per fill
- Ipratropium zero co-pay
- Temezepam \$1.00 per fill

Petitioner continues to incur these expenses. This works out to be $\$77.49 \div 6 \text{ months} = \12.92 per month.(Exhibit 4; Exhibit 6, pgs. 34-65; and Exhibit 9)

- 18. Petitioner has additional expenses for Montelukast, \$10.00 per month; Systane - \$14.79 per month; and a one -time expense for Q-Pap of \$.50 (\$.04 per month). (Exhibits 4 and 9)
- 19. Petitioner’s total monthly out of pocket medical expense works out as follows:
 - \$46.08 for glasses
 - \$.50 clinic co-pay
 - \$16.50 vitamins
 - \$12.92 prescriptions
 - \$10.00 prescription for Montelukast
 - \$14.70 prescription for Systane
 - \$.04 per month for Q-Pap

\$100.74 Total out of pocket medical expenses

DISCUSSION

The following deductions are applied in determining the household’s 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);

For Petitioner has no earned income, so this does not apply to her.

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

\$100.74 total out of pocket medical expenses - \$35.00 = \$65.74 excess medical expense.

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

Petitioner did not report this expense.

- (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 January 2016:

Gross Income	\$816.78	Rent	\$110.00
No Earned Income Deduction		HSUA	\$458.00

Standard Deduction	-\$155.00		
Medical Expenses exceeding \$35	-\$65.74		
Dependent Care Expenses		-50% net income	-\$298.02
		<u>before shelter deduction</u>	
Net Income before shelter deduction	\$596.04		Excess Shelter Expense: \$269.98
Excess Shelter Expense	- \$269.98		
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Net Income	\$326.06		

Households of one, with a net income of \$326.06 are eligible for Foodshare benefits in the amount of \$96.00 per month. *FSH §8.1.2*

CONCLUSIONS OF LAW

The agency did not correctly calculate the Petitioner’s Foodshare benefit for January 2016 going forward.

THEREFORE, it is ORDERED

That the agency issue to the Petitioner FoodShare benefits totaling \$96.00 per month, effective January 2016 going forward. The agency shall take all administrative steps to complete this task within ten days of this decision.

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 26th day of February, 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 February 26, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability