

2. On January 19, 2016, the agency sent the Petitioner a notice, indicating that effective February 1, 2016, her FoodShare benefits would be reduced from \$185.00 to \$43.00 per month. (Exhibit 4)
3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 25, 2016. (Exhibit 1)
4. On January 29, 2016, the agency sent the Petitioner a notice, indicating that effective February 1, 2016, her FoodShare benefits would be \$92.00 per month. (Exhibit 5)
5. Petitioner is a household of one person. Her sole source of income is \$816.78 per month from Social Security Disability Income. She receives energy assistance, and pays rent in the amount of \$197.00 per month. She reported no out of pocket medical expenses over \$35.00 per month. (See Exhibits 2, 5 and 6)

DISCUSSION

The following deductions are applied to gross income to determine the FoodShare allotment:

- (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 has no 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);
- (4) dependent care deduction for child care expenses, 7 *CFR* § 273.9(d)(4); and
- (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	\$816.78	Rent	\$197.00
Standard Deduction	-\$155.00	HUSA	+\$458
No Earned Income Deduction		-50% net income	-\$330.89
No Medical Expenses exceeding \$35		<u>before shelter deduction</u>	
No Dependent Care Deduction		Excess Shelter Expense: \$324.11	
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Net Income before shelter deduction	\$661.78		
Excess Shelter Expense	- \$324.11		
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Net Income	\$337.67		

Households of one, with net income of \$337.67 are entitled to FoodShare benefits, in the amount of \$92.00 per month. *FSH §8.1.2*

The Petitioner argues that she has to follow a special diet because of her diabetes. However, there are no deductions allowed for expenses related to special diets. This is specifically prohibited by *FSH §4.6.4.2*

CONCLUSIONS OF LAW

The agency correctly calculated the Petitioner’s FoodShare allotment.

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 24th 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 24, 2016.

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