



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/173719

PRELIMINARY RECITALS

Pursuant to a petition filed April 13, 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 May 17, 2016, at Milwaukee, Wisconsin.

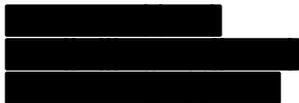
The issue for determination is whether Milwaukee Enrollment Services correctly calculated the Petitioner's FoodShare benefits.

NOTE: The record was held open until May 24, 2016, to give the Petitioner an opportunity to submit documentation of his education expenses. No documentation was received by the designated deadline.

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] 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 # [Redacted]) is a resident of Milwaukee County.
2. On March 24, 2016, the Petitioner contacted the agency to complete a renewal. (Exhibit 2, pg. 11)

3. On April 5, 2016, the agency sent the Petitioner a notice that effective May 1, 2016, his FoodShare benefits would be reduced to \$20.00 per month. (Exhibit 2, pgs. 35-40)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 13, 2016. (Exhibit 1)
5. Petitioner is a household of one person. He does not pay rent. He pays \$55.00 per month to his mother for his share of electricity and gas charges. (Exhibit 2, pg. 22; Testimony of Petitioner's mother)
6. Petitioner submitted four weekly paychecks, one for \$227.11, one for \$206.96, one for \$207.86, and one for \$211.13. This works out to be:

$$\$227.11 + \$206.96 + \$207.86 + \$211.13 = 853.06 \text{ total income}$$

$$853.06 \text{ total income} \div 4 \text{ checks} = \$213.26 \text{ average income per check}$$

$$\$213.26 \times 4.3 \text{ average weeks per month}^1 = \$917.02 \text{ average monthly income}$$

(Exhibit 2, pgs. 12-15)

DISCUSSION

Once a household passes the gross income test, 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 this was: $\$917.02 \times 20\% = \183.40

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

This does not apply to Petitioner because he is neither elderly, blind or disabled.

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

This does not apply to Petitioner

- (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

¹ 7 C.F.R. §273.70(c)(2) requires use of 4.3 week month or 2.15 bi-weekly pay periods per month.

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.

Petitioner pays for his portion of heat (gas) and electricity and so, is entitled to the full utility standard 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:

Gross Income	\$917.02	Rent	\$ zero
Earned Income Deduction	-\$183.40	HSU	+\$458.00
Standard Deduction	-\$168.00	-50% net income	-\$282.81
No Medical Expenses exceeding \$35		before shelter deduction	
Dependent Care Expenses			
		<hr/>	
Net Income before shelter deduction	\$565.62	Excess Shelter Expense:	\$175.19
Excess Shelter Expense	- \$175.12		
		<hr/>	
Net Income	\$390.50		

Households of one with a net income of \$390.50 are entitled to FoodShare benefits in the amount of \$76.00 per month. *FSH §8.1.2*

CONCLUSIONS OF LAW

The agency did not correctly calculate the Petitioner’s FoodShare benefits for May 1, 2016, going forward.

THEREFORE, it is ORDERED

That the agency issue FoodShare benefits to the Petitioner in the amount of \$76.00 per month for May 1, 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 3rd day of June, 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 June 3, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability