



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: FOO - 174615

PRELIMINARY RECITALS

On May 25, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Washington County Department of Social Services regarding FoodShare benefits (FS). The hearing was held on June 23, 2016, by telephone.

The issue for determination is whether the Washington County Department of Social Services (the agency) correctly calculated the Petitioner's FoodShare benefits at \$77.00 per month, effective June 1, 2016.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [Redacted] Economic Support Lead Worker
Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Mayumi Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Washington County.

2. In mid-April 2016, the Petitioner began receiving unemployment benefits in the amount of \$370.00 per week. (Exhibit 4)
3. On May 14, 2016, information about the Petitioner's unemployment benefits auto populated into the Petitioner's case. (Case Comments – Exhibit 3)
4. On May 16, 2016, the agency sent the Petitioner a notice, advising him that his FoodShare benefits would be decreased effective June 1, 2016, from \$357.00 per month to \$77.00 per month. (Exhibit 5)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 25, 2016. (Exhibit 1)
6. The Petitioner pays a mortgage of \$1,539.42 per month, which includes his property taxes. The Petitioner also has a heating expense. (Testimony of Respondent)
7. Petitioner pays \$931 per year for home owner's insurance, which works out to be \$77.58 per month. (Testimony of Petitioner)
8. Petitioner's household consists of two people, the Petitioner and his son. (Testimony of Petitioner)

DISCUSSION

To be categorically eligible, most FoodShare groups must have income at or below 200% of the Federal Poverty Level (FPL). *FoodShare Wisconsin Handbook (FSH) §4.2.1.1; 7 CFR 273.2(j)(2)*.

200% of FPL for an assistance group of 2 is \$2656 per month. *FSH §8.1.1.1* Per 7 C.F.R. 273.10(c)(2), income is averaged using a 4.3 week month. Here, the Petitioner was receiving \$370 per month. Multiplied by 4.3 weeks, we have average income of \$1591.00. Thus, Petitioner is categorically eligible for FoodShare benefits, because his gross income is below 200% of FPL.

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);
- (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.

FSH, §§ 4.6.7.1 and 8.1.3.

Applying the applicable/reported deductions to Petitioner’s income we have the following net income calculation, effective July 1, 2015:

Gross Income	\$1591.00	Mortgage	\$1539.42
No Earned Income Deduction		Insurance	(inc. above)
Standard Deduction	-\$155.00	Property Tax	+\$77.58
No Medical Expenses exceeding \$35		HSU	+\$458.00
Dependent Care Expenses		-50% net income	-\$718.00
		<u>before shelter deduction</u>	
Net Income before shelter deduction	\$1436.00	Excess Shelter Expense: \$1357.00,	
		but there is a cap on the deduction of	
		\$504.00.	
Excess Shelter Expense	- \$504.00		
Net Income	\$932.00		

Households of two with a net income of \$932.00 are eligible for \$77.00 per month for Foodshare benefits. *FSH §8.1.2*

The Petitioner indicated that he has stopped filing for unemployment benefits and is no longer receiving them. If that is the case, the Petitioner will need to contact the agency and report the change, so that the agency can re-determine his benefits.

CONCLUSIONS OF LAW

The agency correctly calculated the Petitioner’s FoodShare benefits at \$77.00 per month, effective June 1, 2016.

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.

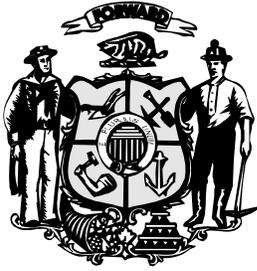
APPEAL TO COURT

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, **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 18th day of July, 2016

\s _____
Mayumi 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 July 18, 2016.

Washington County Department of Social Services
Division of Health Care Access and Accountability