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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: FOO - 174784

PRELIMINARY RECITALS

On June 2, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS). The hearing was held on July 6, 2016, by telephone.

The issue for determination is whether Petitioner’s FoodShare allotment has been correctly calculated.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI53703

By: 
Milwaukee Enrollment Services
1220 W Vliet St
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 the reduction of his FoodShare allotment. The allotment was \$194.00 but was reduced to \$166.00 effective July 1, 2016. The reduction was initially

- determined to be to \$122.00 but the agency recalculated and excluded Petitioner's SSI-E benefit of \$95.99 per FoodShare Eligibility Handbook, §4.3.4.3.
3. Petitioner's FoodShare group consists of 1 person – Petitioner himself.
 4. The agency used the following income in determining Petitioner's FoodShare allotment - \$855.78. This consists of Social Security of \$785.00 and a State Supplement of \$70.78. Again, a State exceptional expense benefit of \$95.99 was not counted.
 5. The agency used the following expenses in determining Petitioner's FoodShare allotment: a standard deduction of \$155.00 and a shelter deduction of \$607.61 based a rent expense of \$500.00 and the standard heating utility allowance of \$458.00 for a person with a heating expense obligation.

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 one is \$1946. *FSH, §8.1.1.1.* 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 \$155 per month for a household of 1-3 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 (\$446.00 where there is a heat obligation); 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.*

Having reviewed the agency calculation – I can find no errors. The initial inclusion of the SSI-E benefit was corrected before the hearing. Petitioner does not believe this is fair but the Division of Hearings and Appeals can only apply the Federal law establishing and regulating the FoodShare program; it cannot change the law.

As a final note, a reported change in income or expenses can affect the FoodShare allotment in the month following the report of the change so if any of Petitioner's financial circumstances change she should report the change as soon as possible. *FSH, §6.1.3.3.*

CONCLUSIONS OF LAW

That the available evidence indicates that the agency correctly determined Petitioner's FoodShare allotment.

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, **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 21st day of July, 2016

\s _____
David 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 July 21, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability