



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: FOO - 175115

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on June 20, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on July 26, 2016, at Milwaukee, Wisconsin. The Petitioner submitted additional documentation post-hearing and the record was closed on August 1, 2016.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On May 23, 2016, the Petitioner completed a FS renewal. He reported new employment at [REDACTED], 28 hours/week at \$10/hour.

3. On May 24, 2016, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of his income and employment. The due date for the information was June 2, 2016.
4. On June 3, 2016, the agency issued a Notice of Decision to the Petitioner that his FS benefits would end July 1, 2016 due to failure to provide requested verifications.
5. On June 20, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.
6. On June 28, 2016, the Petitioner provided verification of employment and income.
7. On June 29, 2016, the agency issued a Notice of Decision to the Petitioner informing him that he would receive FS benefits of \$16/month effective July 1, 2016. The notice informed him that this is based on gross monthly income from [REDACTED] of \$1,440.50, rent of \$100/month and utility expenses.
8. On July 7, 2016, the agency issued a Notice of Decision to the Petitioner informing him that he would receive FS benefits of \$16/month effective August 1, 2016. The notice informed him that this is based on gross monthly income from [REDACTED] of \$1,439.47, rent of \$100/month and utility expenses.

### **DISCUSSION**

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

In this case, the agency submitted the verification it received of the Petitioner's income from [REDACTED]. This consists of actual pay statements from June, 2016. Based on those pay statements, the agency properly determined that the Petitioner's gross monthly income averages \$1,439.47. At the hearing, the Petitioner reported that his rent has increased. Post-hearing, on August 1, 2016, the Petitioner submitted receipts showing that he paid rent of \$215 for July 1, 2016 and \$305 for August, 2016. I have forwarded this information to the agency for consideration in its determination of Petitioner's FS benefits in the future. Because the Petitioner did not supply information regarding a change in rent until August, 2016, it would not impact his benefits for July or August, 2016. Petitioner also testified that he has food allergies and must consume a special diet. There is no consideration given in the FS regulations for special diets.

I have reviewed the FS budgets used by the agency to determine the Petitioner FS benefits for July and August, 2016 and find no error in the calculations. Based on the information provided, I conclude the agency properly determined the Petitioner's FS benefits effective July 1, 2016. If the rent information impacts the Petitioner's future FS benefits, he will receive a notice from the agency regarding that determination with new appeal rights if he disagrees.

### **CONCLUSIONS OF LAW**

The agency properly determined the Petitioner's FS benefits effective July, 2016.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's 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 16th day of August, 2016

\s \_\_\_\_\_  
Debra Bursinger  
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 August 16, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability