



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/142790

PRELIMINARY RECITALS

Pursuant to a petition filed August 01, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to FoodShare benefits (FS), a hearing was held on September 12, 2012, at Waukesha, Wisconsin.

The issue for determination is whether the agency correctly determined Petitioner's FoodShare allotment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Aina Bromberek

Waukesha County Health and Human Services
500 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. Petitioner filed this appeal on August 1, 2012 and on her appeal she noted her FoodShare benefits were terminated. There has been no termination of FoodShare for Petitioner.

3. Petitioner applied for FoodShare on March 26, 2012. Her case was opened and a benefit of \$16 per month has been issued since April 1, 2012.
4. Petitioner receives \$1753.82 in maintenance. Petitioner was working from November 1, 2011 to March 26, 2012 at Wal-Mart. That income was not counted for her FoodShare allotment determination.
5. Petitioner's household size is one.
6. In determining the amount of Petitioner's FS allotment the agency used a shelter expense of \$720 and the standard utility allowance of \$444.00.

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.*

Once a household passes the gross income test the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$147 per month for a household of 1 person, *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 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 \$459.00 on the shelter cost deduction unless a household has an elderly, blind or disabled member. *FSH, §§ 4.6.7.1 and 8.1.3.*

In reviewing the agency calculations of Petitioner's FoodShare allotment, I do not find any errors. I also note that Petitioner did not dispute the income or expense figures used though wondered about how \$16.00 was arrived at. *Also see FSH, §8.1.2.*

CONCLUSIONS OF LAW

That the agency correctly determined the amount of Petitioner's FoodShare allotment.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 25th day of September, 2012

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals

c: Waukesha County Health and Human Services - email
Department of Health Services - email



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The preceding decision was sent to the following parties on September 25, 2012.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability