



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/142892

PRELIMINARY RECITALS

Pursuant to a petition filed July 31, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Douglas County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 18, 2012, at Superior, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner's level of FoodShare benefits.

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: Kevin Giersdorf

Douglas County Department of Human Services
1316 North 14Th Street
Superior, WI 54880

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Douglas County.
2. The county agency notified the petitioner on July 16, 2012, that her FoodShare allotment would fall from \$325 to \$16 per month as of August 1, 2012.

3. The petitioner lives with her husband. Both are disabled.
4. The petitioner receives \$1,212 and her husband receives \$1,087 from social security disability payments each month after \$99.90 is deducted for his Medicare premium.
5. Each month, the petitioner pays \$680 for her mortgage, \$65.91 for house insurance, and \$134.82 for property tax.

DISCUSSION

The size of a FoodShare allotment depends upon net income and household size. Net income is determined after subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d) from gross income. The agency reduced the petitioner's FoodShare allotment from \$325 to \$16 per month as of August 1, 2012, after her household income increased as a result of her receiving social security disability payments. She and her husband receive a total of \$2,398.90 in gross social security payments after the \$99.90 deducted for his Medicare payment is added back in. (The petitioner is not eligible for Medicare because she has not been disabled for one year.)

She is entitled to the \$147 standard deduction allowed for households with up to three members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). She is not entitled to an earned income deduction because she is not working. See 7 CFR § 273.9(d)(2). She is entitled to the medical deduction available for those whose verified medical expenses exceed \$35 per month. 7 CFR § 273.9(d)(3); *FoodShare Wisconsin Handbook*, § 4.6.4.1. Although she did not submit any medical bills, she receives a deduction for the \$64.90 left after subtracting \$35 from her husband's \$99.90 Medicare premium.

The last deduction she is potentially entitled to is the excess shelter deduction, which equals the amount that housing costs, including a standard utility allowance currently set at \$444, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. Regardless of the amount derived from this formula, the maximum allowed for the shelter deduction is generally \$459. *FoodShare Wisconsin Handbook*, § 8.1.3. Subtracting the \$147 standard and \$65.90 medical deductions from her \$2,398.90 monthly income leaves her with \$2,186. Half of this is \$1,093. She pays \$680 for her mortgage, \$65.91 for house insurance, and \$134.82 in property tax each month. Adding these amounts to the \$444 standard utility allowance gives her \$1,424.73 in shelter costs. This exceeds \$1,093, half of her remaining net income, by \$331.73, which is her shelter deduction. Subtracting this along with her standard and excess medical deductions from her \$2,398.90 gross household income leaves her with \$1,855.27 in net income. The FoodShare allotment for a two-person household with this income is \$16, the amount the county agency correctly allowed the petitioner. See *FoodShare Wisconsin Handbook*, § 8.1.2.

CONCLUSIONS OF LAW

The county agency correctly determined the petitioner's FoodShare allotment.

THEREFORE, it is

ORDERED

The petitioner's 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 Madison,
Wisconsin, this 28th day of September, 2012

Michael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals

c: Douglas County Department of Human Services - email
Department of Health Services - email



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The preceding decision was sent to the following parties on September 28, 2012.

Douglas County Department of Human Services
Division of Health Care Access and Accountability