



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/143660

PRELIMINARY RECITALS

Pursuant to a petition filed September 05, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Oneida County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on October 03, 2012, at Rhinelander, Wisconsin.

The issue for determination is whether the Department erred in reducing petitioner's FoodShare allotment to \$47 effective September 1, 2012 when his mortgage expense decreased.

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: Amy Mayo

Oneida County Department of Social Services
Oneida Avenue
Rhinelander, WI 54501

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Oneida County.
2. Petitioner has been enrolled in the FoodShare ("FS") Program since at least October 2011.
3. Petitioner mortgage expense was previously \$358 per month.

4. Petitioner informed the Department that his mortgage expense had dropped to \$300 per month.
5. The Department recalculated petitioner's FS allotment. By notice dated August 15, 2012, the Department informed petitioner that his allotment would drop from \$64 to \$47.
6. Petitioner filed a timely request for hearing.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which was, at the relevant time of the agency action, \$142 per month for a three person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin Handbook, Appendix 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); FoodShare Wisconsin Handbook, App. 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); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin Handbook, App. 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); FoodShare Wisconsin Handbook, App. 4.6.7.

The shelter deduction mentioned above is calculated as a function of actual shelter costs (in this case the mortgage expense) and the standard utility allowance. Thus, if the shelter costs go down, so the shelter deduction is reduced. That is what happened in this case. With the reduction in mortgage expense from \$354 to \$300 the deduction dropped from \$384 to \$326. This meant that the net income increased from \$461.12 to \$510. The allotment is calculated based on the net income. See Foodshare Wisconsin Handbook § 8.1.2 (table effective until 9/30/12). I find no error with the Department calculations. See exhibit #2.

Petitioner argued at the time of the hearing that he has many home repairs and he think that his home repair costs should be deducted. The only repairs or maintenance costs allowed for deduction under the rules of the Program are those related to a natural disaster. See FoodShare Wisconsin Handbook § 4.6.7.2. I understand that petitioner believes this is unfair. But, the rules of the Program must control its administration and the Department has not erred.

CONCLUSIONS OF LAW

The Department has not erred in reducing petitioner's FS allotment to \$47 effective September 1, 2012 because petitioner's mortgage costs decreased.

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 Madison,
Wisconsin, this 11th day of October, 2012

John P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 11, 2012.

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