



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/144568

PRELIMINARY RECITALS

Pursuant to a petition filed October 15, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 3, 2012, by telephone.

The issue for determination is whether the petitioner was issued correct FS allotments for October and November 2012.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Tom Miller, W. Consortium Supr.
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Monroe County.

2. The petitioner applied for FS on August 21, 2012, for his household of two persons (self and minor son, BW). The application was granted. Based on \$52 gross monthly income, the maximum allotment for two persons of \$367 was issued for September 2012.
3. The two person’s household income jumped to \$1,509.90 for October 2012. After subtracting a 64.90 Excess Medical Expense deduction, a utility standard deduction, and factoring in a \$600 rent cost, the October allotment was \$96.
4. For November 2012, the Department confirmed that the petitioner’s minor child, JW, was in the petitioner’s household, rather than his mother’s FS household. With the addition of JW and JW’s income to the household, the allotment increased to \$158 for November. Notice of the change for November was issued on October 2, 2012. The same medical expense and rent expense were used, and a utility standard was again subtracted.

DISCUSSION

The petitioner questions the correctness of the calculation of his FS allotment amounts for October and November, 2012. The petitioner’s gross income is not in dispute: the parties agreed that he has no income other than Social Security benefits for himself and his children. He also agrees that his rent expense is \$600 monthly. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at www.emhandbooks.wisconsin.gov/fsh/.

In calculating the petitioner’s allotments, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department’s *FS Wisconsin Handbook*. The federal rule requires that the county start with gross, rather than net, income, and allow only a limited number of identified deductions from that income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a case with one to three persons is currently set at \$149, per *FS Wisconsin Handbook*, 8.1.3. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly not given here. A Dependent Care Deduction is also taken if he incurs day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person’s allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. There is only a record of an excess medical expense (Part B premium) here. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii). Based on a \$600 shelter cost plus the \$442 heating utility standard, the petitioner’s shelter costs totaled \$1,042. This exceeded half of the adjusted income in October by \$394, so \$394 was deducted in the allotment calculation.

As an illustration, the October, 2012, allotment calculation correctly looked like this:

Gross income	1509.90
Minus Earned Inc. Deduction	- 000.00
Minus Excess Medical	-064.90
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-149.00</u>
Adjusted Income	1296.00
Minus Shelter Deduction	<u>- 394.00</u> (\$469 is the maximum for non-disabled cases)
Net Income	902.00

The correct allotment for two persons with net income of \$902 was \$96 in October, 2012. *FS Wisconsin Handbook*, 8.1.2, p.8.

As an aside, the petitioner had a question regarding reimbursement for his out-of-town medical transportation. He was encouraged to contact LogistiCare, which has a contract with the state MA program, at 866-907-1493.

CONCLUSIONS OF LAW

1. The Department correctly determined the petitioner's FS allotments for October and November, 2012.

THEREFORE, it is

ORDERED

That the petition 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 served and 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, 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 6th day of December, 2012

\sNancy J. Gagnon
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 December 6, 2012.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability