



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/145889

PRELIMINARY RECITALS

Pursuant to a petition filed December 10, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a hearing was held on January 22, 2013, at Medford, Wisconsin.

The issue for determination is whether the county agency correctly determined the 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
Madison, Wisconsin 53703

By: Beula Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495 -8095

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Taylor County.
2. The petitioner receives \$1,240 a month in social security.

3. The petitioner lives alone. She paid \$600 a month in rent until January 1, 2012, when it increased to \$750 per month.
4. The petitioner has \$87 in medical bills each month.
5. The agency set the petitioner's FoodShare allotment at \$30 per month as of December 1, 2012, \$21 per month as of January 1, 2013, and \$66 per month as of February 1, 2013. It gave her a \$45 additional allotment for January 1, 2013, because her net income had fallen.

DISCUSSION

The petitioner filed two appeals concerning her FoodShare allotment. I will issue two identical decisions that pertain to both appeals. I note that the Northern Consortium is represented by Beulah Garcia. I did not call her because I did not have a telephone number for her. She called after the hearing and indicated that she provided her telephone number and the exhibits online. While I have found three copies of each exhibit online, I have found no record of her telephone number. I note to Ms. Garcia that one copy of each exhibit is sufficient.

The petitioner contends that she should receive more FoodShare because she does not believe that that the amount she receives now meets her needs. This may be true, but the size of a FoodShare allotment depends solely 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 petitioner is entitled the \$149 standard deduction allowed for households with up to three members, the medical expense deduction for whose verified medical expenses exceed \$35 per month, and the excess shelter deduction, which equals the amount that housing costs, including a standard utility allowance currently set at \$442, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. *FoodShare Wisconsin Handbook*, §§ 4.6.2, 4.6.7. and 8.1.3; 7 CFR § 273.9(d)(1), (3), and (6)(ii). She is not entitled to the earned income tax deduction because she has no earned income.

The petitioner lives alone and receives \$1,240 per month in social security. After subtracting \$35 from her \$87 in medical expenses, she is entitled to a \$52 excess medical deduction. Subtracting this and the \$149 standard deduction from her \$1,240 gross income leaves her with \$1,039. Half of this is \$519.95. Her \$750 rent plus her \$442 standard deduction exceed this amount by \$672.05. Normally, this would be her shelter deduction, but that deduction cannot exceed \$469. *FoodShare Wisconsin Handbook*, § 8.1.3. Subtracting \$469 along with the standard and excess medical deductions from her gross income leaves her with \$570 in net income. The FoodShare allotment for a person with this net income is only \$29. *FoodShare Wisconsin Handbook*, § 81.1.2. It is unclear why the agency determined that she is entitled to more than this, but it did list her net income as only \$445.70. None of the notices it sent illustrated how it calculated her benefits. Because of this, I will assume that there are other deductions such as a Medicare premium that I am not aware of and uphold its decision. I have also reviewed the information concerning her earlier allotments and can find no error.

CONCLUSIONS OF LAW

The petitioner is not entitled to additional FoodShare benefits.

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 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 25th day of January, 2013

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



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The preceding decision was sent to the following parties on January 25, 2013.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability