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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/145903

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 13, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on January 09, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined Petitioner's FoodShare allotment effective January 1, 2013.

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: Mary Hartung, Income Maintenance Worker – Advanced  
Milwaukee Enrollment Services  
1220 W. Vliet St.  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On December 3, 2012, the agency sent Petitioner a notice indicating that effective January 1, 2013, her FoodShare benefits would be decreasing from \$148.00 to \$145.00. (Exhibit 3)

3. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 13, 2012. (Exhibit 1)
4. Effective January 1, 2013, Petitioner Social Security Income increased from \$477.00 per month to \$485.00 per month. (Petitioner's testimony; Exhibit 4)

Petitioner continued to receive \$138.90 per month in Federal Supplemental Security Income and \$83.78 per month in State Supplemental Security Income. (Id.)

Petitioner also continued to receive income from a pension in the amount of \$102.10 per month. (Exhibit 5, Petitioner's testimony)

Thus, Petitioner's total income as of January 1, 2013, is as follows:

$$\$485.00 + \$138.90 + \$83.78 + 102.10 = \$809.78$$

5. Petitioner pays for utilities. (Petitioner's testimony)
  6. Petitioner's property taxes average \$216.66 per month and she pays \$150.00 in condominium fees. (Exhibit 3; Petitioner's testimony)
- Thus, her shelter costs are:  $\$216.66 + 150.00 = \$366.66$
7. Petitioner's assistance group size is one and her household qualifies as an elderly, blind or disabled household. (Exhibits 6 and 4)

### 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 a member over age 60. *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); 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 from income are applied to determine the household's FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This was is \$147 per month for a household of 1 during the time in question, but effective October 1, 2012, was changed to \$149 per month, *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).*

During the time in question, the heating standard utility allowance (HSUA) was \$444, but Effective October 1, 2012, it was changed to \$442 per month.

During the time in question there was a cap of \$459.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member. Effective October 1, 2012, the cap was changed to \$469 per month.

*FSH, §§ 4.6.7.1 and 8.1.3.*

The term ‘disabled’ is a term with a definition as to the FoodShare program:

**3.8.1.1 EBD Introduction**

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

*FSH, §3.8.1.1.*

Applying the foregoing to Petitioner we have the following net income calculation, effective January 1, 2013:

Gross Income	\$809.78	Housing Costs	\$366.66
No Earned Income Deduction		HSU	\$442.00
Standard Deduction	-\$147.00	50% Net income	-\$330.39
No Medical Expenses exceeding \$35			
No Dependent Care Deductions		<u>Excess Shelter Expense</u>	<u>\$478.27</u>
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Net Income	\$660.78		
Excess Shelter Expense	-\$478.27		
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Net Income	\$182.51		

Individuals, in a household of one, with a net income of \$182.51 qualify for a FoodShare allotment of \$145.00 per month. *FSH §8.1.2.*

It should be noted that Petitioner indicated that she might have deductible medical expenses. If Petitioner has out-of-pocket medical expenses that exceed \$35.00, she should report this to the agency and provide verification of the same.

**CONCLUSIONS OF LAW**

The agency correctly determined Petitioner’s FoodShare allotment to be \$145.00 per month effective January 1, 2013.

**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 Milwaukee,  
Wisconsin, this 11th day of January, 2013.

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\sMayumi M. Ishii  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 11, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability