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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/145985

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 14, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services ["County"] in regard to FoodShare ["FS"] benefits, a Hearing was held on January 29, 2013, at Madison, Wisconsin. The Hearing for this matter was held at the same time as the Hearing for the following related matter concerning the same petitioner: BCC-145984.

The issue for determination is whether it was correct to reduce petitioner's FS to \$16 per month effective October 1, 2012.

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: Antonio Esterrich, Lead ESS

Daiana Ramos, ESS

Dane County Department of Human Service s

1819 Aberg Avenue

Suite D

Madison, WI 53704-6343

**OTHER PERSON PRESENT:**

[REDACTED], petitioner's friend

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney

## Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. In September 2012 petitioner submitted a Six- Month report Form ["SMRF"] to the County on which she reported working; on September 14, 2012 the County processed the SMRF and on September 24, 2012 the County received employer verification of petitioner's earnings. Exhibits #1 & #2.
3. Petitioner's increased income caused her monthly FS allotment to decrease to \$16. Exhibits #3 & #4.

**DISCUSSION**

When calculating an FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2011); *Foodshare Wisconsin Handbook* ["FWH"] 4.3.2. For purposes of FS *income* includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2011); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction<sup>1</sup>, dependant care deduction; child support deduction; homeless shelter deduction; excess shelter deduction<sup>2</sup>; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2011); FWH 4.6.1.

Petitioner does not dispute that, given her income as verified by her employer in September 2012, she is entitled to only \$16 per month in FS. Petitioner argues her income is actually less because she works less hours than what her employer verified to the County in September 2012. See, Exhibit #5. However, it was not until the time of the January 29, 2013 Hearing in this matter that petitioner reported to the County that she worked less hours. Therefore, that information can not alter the FS reduction that took place in October 2012. That information may impact her FS allotment going forward.<sup>3</sup>

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<sup>1</sup> The excess medical deduction is only for that portion of medical expenses that is in excess of \$35.00 per month. 7 C.F.R. § 273.9(d)(3)intro. (2011); FWH 4.6.4.

<sup>2</sup> Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2011); FWH 4.6.7.1. When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2011); FWH 4.6.7.2. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2011); FWH 4.6.7.1.

<sup>3</sup> The County must take prompt action on all changes to determine if the change affects the household's eligibility or allotment. 7 C.F.R. § 273.12(c)intro. (2011); FWH 6.1.3. All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, decreases in income, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification. FWH 6.1.3.3.; See also, 7 C.F.R. §§ 273.12(c)(1)(i) & (ii) (2011).

**CONCLUSIONS OF LAW**

For the reasons explained above, it was correct to reduce petitioner's FS to \$16 per month effective October 1, 2012.

**NOW, THEREFORE, it is**

**ORDERED**

that the petition for review herein be and the same is hereby 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 7th day of February, 2013

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\sSean P. Maloney  
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 February 7, 2013.

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