



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/146668

PRELIMINARY RECITALS

Pursuant to a petition filed January 17, 2013, 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 March 05, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly reduced Petitioner's FoodShare benefits from \$200.00 per month to \$35.00 per month, effective February 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Alma Lezama, HSPC Sr.
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 January 14, 2013, the agency sent Petitioner a notice indicating that his FoodShare benefits would be reduced from \$200.00 to \$35.00 per month because of a change of income. (Exhibit 6)

3. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on January 17, 2013. (Exhibit 1)
4. In January 2013, Petitioner began receiving Unemployment Insurance Benefits (UIB) in the amount of \$250.00 per week. He is neither elderly, blind, nor disabled. Petitioner has a household of one and pays rent in the amount of \$400.00 per month. (Petitioner's testimony)

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); FoodShare Wisconsin Handbook (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 are applied (FSH, at § 4.6):

- (1) a standard deduction - which currently is \$149 per month for a household of 1, 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, it was changed for \$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.

Having reviewed the Department's calculations, I can find no error in their determination of Petitioner's monthly allotment, effective February 1, 2013.

Petitioner’s income comes only from his UIB in the amount of \$250 per week. Thus, his gross monthly income is calculated as follows:

$$\$250 \text{ per week} \times 4.3 \text{ average weeks per month} = \$1075.00 \text{ average monthly income}$$

Thus, Petitioner’s allotment is calculated as follows:

Gross Income	\$1075.00	Rent	\$400.00
No Earned Income Deduction		HSU	+\$442.00
Standard Deduction	-\$149.00	50% Net income	-\$463.00
No Medical Expenses exceeding \$35			
No Dependent Care Deduction		<hr/>	<hr/>
		Excess Shelter Expense	\$379.00
<hr/>			
Net Income	\$926.00		
Excess Shelter Expense	-\$379.00		
<hr/>			
Net Income	\$547.00		

Individuals, in a household of one, with a net income of \$547.00 qualify for a FoodShare allotment of \$35.00 per month. *FSH §8.1.2.*

Petitioner asked that it be noted for the record, that he has, in the past, voluntarily asked to have his FoodShare benefits reduced, once he got back on his feet and that he does not now seek to abuse the system. Petitioner should note that no such accusations have been made and there is nothing in the record that even remotely indicates an abuse of the system. Petitioner stated, credibly, that he lost his job in December 2012, is responsible for his mother, who does not live with him, and just needs some help until he finds a new job. Clearly, Petitioner is honorably using the economic safety net established by the government for its intended purpose and nothing more.

CONCLUSIONS OF LAW

The agency correctly reduced Petitioner’s FoodShare benefits from \$200 per month to \$35 per month effective February 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 22nd day of March, 2013.

\sMayumi M. Ishii
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 March 22, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability