



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/147765

PRELIMINARY RECITALS

Pursuant to a petition filed March 01, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on March 25, 2013.

The issue for determination is whether petitioner's monthly FS allotment may be increased due to petitioner's medical need for a gluten free diet.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Carol Shimek, ESS
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner has celiac disease requiring her to eat a gluten free diet.

3. The County denied petitioner's request to increase her monthly FS allotment due to her medical need for a gluten free diet.

DISCUSSION

The amount of a person's monthly FS allotment depends, in part, on the person's income: in general, the higher the income the lower the allotment. 7 C.F.R. § 273.10 (2011); *FoodShare Wisconsin Handbook* ["FWH"] 4.3.1 & 7.1.1. When calculating the FS allotment a person's income, in certain circumstances, is reduced by allowable medical expenses. 7 C.F.R. § 273.9(d)(3) (2011); FWH 4.6.4.

Petitioner argues that she needs additional FS because of her medical condition. She states that the foods she needs are very expensive, she cannot buy such foods in bulk, and she feels she is not able to get the proper food she needs. Petitioner may be correct. However, special diets, whether or not the diet is related to a medical condition, are not allowed as medical expense form purposes of FS. 7 C.F.R. § 273.9(d)(3)intro. (2011); FWH 4.6.4.2.7.

CONCLUSIONS OF LAW

For the reason discussed above, petitioner's monthly FS allotment can not be increased due to her medical need for a gluten free diet.

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 25th day of March, 2013

\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 March 25, 2013.

Brown County Human Services
Division of Health Care Access and Accountability