



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/148286

PRELIMINARY RECITALS

Pursuant to a petition filed March 26, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Oneida County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on April 22, 2013, at Rhinelander, Wisconsin.

The issue for determination is whether the Department erred in reducing petitioner's FoodShare ("FS") allotment to \$48 effective January 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: Mary Rideout

Oneida County Department of Social Services
Oneida Avenue
PO Box 400
Rhinelander, WI 54501

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Oneida County.
2. Petitioner has been a FS recipient since at least as far back as May 2012. He had previously been receiving an allotment of \$53 monthly.

3. Petitioner previously received gross social security in the amount of \$1,024.90.
4. Petitioner's gross social security was adjusted effective January 1, 2013 to an amount of \$1,041.90. This resulted in a gross income of \$1,051.90 per month.
5. On December 3, 2012, the Department sent notice to petitioner indicating that his FS allotment would decrease to \$48.
6. Petitioner filed a timely request for hearing.

DISCUSSION

FoodShare allotment is a function of a recipient's income and household composition. Effective January 1, 2013, petitioner received an increase in his social security unearned income due to a cost of living adjustment. The Department reduced his FS allotment from \$53 to \$48. At the time of hearing, petitioner's only argument was that the calculation does not take into account that food prices have increased.

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which was, at the relevant time of the agency action, \$149 per month for a one person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FoodShare Wisconsin Handbook, Sec. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FoodShare Wisconsin Handbook, Sec. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin Handbook, Sec. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FoodShare Wisconsin Handbook, Sec. 4.6.7. This resulted in a net income of \$504 for petitioner. See ex. #2. According to the rules, the appropriate allotment for a person with a monthly net income of \$504 to \$506 is \$48. See FoodShare Wisconsin Handbook § 8.1.2.

The cost of food, and inflation generally, is built into the allotment tables that indicate the allotment a person is to receive. They are also reflected in the deductions allowed. That is, a person with an income of a certain amount would have greater deductions and a higher allotment amount today than in past years. But, petitioner is correct that increases in food prices are not directly built in to the rules of the program. I must, however, apply the rules of the program as they exist. It appears to me that the Department made no error in this case. Petitioner's allotment simply decreased because he is now receiving more income.

CONCLUSIONS OF LAW

The Department did not err in its reduction of petitioner's FS allotment due to an increase in his income.

THEREFORE, it is

ORDERED

That this 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 17th day of May, 2013

\sJohn P. Tedesco
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 17, 2013.

Oneida County Department of Social Services
Division of Health Care Access and Accountability