



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/149225

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 03, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a hearing was held on July 23, 2013, at Ashland, Wisconsin.

The issue for determination is whether the agency correctly determined the petitioner's FoodShare allotment.

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: Beulah Garcia

Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Ashland County.
2. The petitioner receives \$244 per month in unemployment.
3. The petitioner pays \$150 a month for rent.

4. The county agency determined that the petitioner's FoodShare allotment is \$16 per month.

### **DISCUSSION**

The petitioner applied for FoodShare after losing his job. He initially had no income and received a \$200 allotment. In March he began receiving \$244 a week in unemployment, and his FoodShare fell to \$16 per month.

The size of a FoodShare allotment depends upon net income and household size. Net income is determined after subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d) from gross income. The petitioner lives alone. His monthly gross income is \$1,049.20, which is obtained by multiplying his \$244 weekly benefit by 4.3. That the average month has 4.3 rather than four weeks can be seen by dividing the 52 weeks in a year by the 12 months.

He is entitled to the \$149 standard deduction allowed for households with up to three members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). He is not entitled to an earned income deduction because he is not working. *See* 7 CFR § 273.9(d)(2). The other expense he is entitled to is the excess shelter deduction, which equals the amount that housing costs, including a standard utility allowance currently set at \$442, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. Regardless of the amount derived from this formula, the maximum allowed for the shelter deduction is generally \$469. *FoodShare Wisconsin Handbook*, § 8.1.3. Subtracting the \$149 standard deduction from his \$1,049.20 monthly income leaves him with \$900.20. Half of this is \$450.10. He pays \$150 in rent each month. Adding this to the \$442 standard utility allowance gives her \$592 in shelter costs. This exceeds \$450.10, half of his remaining net income, by \$141.90, which is his shelter deduction. Subtracting this and his standard deduction from his \$1,049.20 gross income leaves him with \$758.30 in net income. The FoodShare allotment for a person with this income who is living alone is \$16, the amount the FoodShare agency correctly granted him. *See FoodShare Wisconsin Handbook*, § 8.1.2.

### **CONCLUSIONS OF LAW**

The county agency correctly determined the petitioner's FoodShare allotment.

**THEREFORE, it is**

**ORDERED**

The petitioner's 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 26th day of July, 2013

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\sMichael D. O'Brien  
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 July 26, 2013.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability