



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/149281

PRELIMINARY RECITALS

Pursuant to a petition filed May 07, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 19, 2013, at Sheboygan, Wisconsin.

The issue for determination is whether Sheboygan County (the agency) correctly reduced Petitioner's FoodShare benefits from \$200.00 per month to \$16.00 per month, effective May 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: Mitch Birkey, Economic Support Supervisor
Sheboygan County Department of Human Services
3620 Wilgus Ave.
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. On March 8, 2013, Petitioner applied for FoodShare benefits. At that time, Petitioner completed a Self-Employment Income Report Form, estimating his income from plasma donation to be \$550

- for March, April and May 2013. This works out to be \$183.33 per month. (Exhibits 2 and 3; Petitioner's testimony)
3. Petitioner had problems with the plasma donation and did not donate plasma between approximately March 22, 2013 and the beginning of June 2013. Petitioner did not report this change in income. (Testimony of Petitioner)
 4. Petitioner began donating plasma again at the beginning of June 2013. (Testimony of Petitioner)
 5. On March 25, 2013, Petitioner began receiving Unemployment Insurance Benefits (UIB) in the amount of \$214.00 per week. This works out to be \$920.20 per month [$\214×4.3 average weeks per month]. (Testimony of Petitioner; Testimony of Mitch Birkey; Exhibit 3)
 6. On April 15, 2013, the agency sent Petitioner a notice of action, indicating that effective May 1, 2013, his FoodShare benefits would be reduced from \$200.00 per month to \$16 per month, because his income went up. (Exhibit 3)
 7. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 7, 2013. (Exhibit 1)
 8. Petitioner is neither elderly, blind, nor disabled. (Testimony of Petitioner; Exhibit 3)
 9. Petitioner pays rent in the amount of \$250.00 per month; utilities included. (Id.)

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); 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 –

This is \$149 per month for a household of one. *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)*;

For Petitioner, this is \$36.67 ($\$183.33 \times .20$)

- (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)*.

The heating standard utility allowance (HSUA) is currently \$442 per month.

There is a cap of \$469.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

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.

Petitioner contends that he should receive more than \$16.00 in benefits for May 2013, because he did not donate plasma in April or May 2013. Unfortunately, Petitioner did not report this change in income to the agency.

Any changes in income take effect the month after the agency receives verification of the change. *FSH §6.1.3.1* Because Petitioner did not report the change, there was no verification of the change submitted in time to affect his benefits for May 2013.

The best information available to the agency regarding Petitioner’s estimated income for May 2013, was Petitioner’s Self-Employment Income Report form and the UIB data from the Department of Workforce Development. Thus, Petitioner’s total gross income was calculated at \$1103.53 (\$183.33 plasma donation + \$920.20 UIB)

Petitioner’s net income is then calculated as follows:

Gross Income	\$1103.53	Rent	\$250.00
Earned Income Deduction	- \$36.67	HSU	\$442.00
Standard Deduction	-\$149.00	50% Net income	-\$458.93
No Medical Expenses exceeding \$35			
No Dependent Care Deduction		Excess Shelter Expense	\$233.07
<hr/>			
Net Income	\$917.86		
Excess Shelter Expense	-\$233.07		
<hr/>			
Net Income	\$684.79		

Individuals, in a household of one, with a net income of \$684.79 qualify for a FoodShare allotment of \$16.00 per month. *FSH §8.1.2.*

It should be noted that Petitioner indicated that he started to donate plasma again in June 2013, so the foregoing income/allotment calculations should be accurate for June 2013 forward.

If Petitioner’s income changes again, he is encouraged to report that change as soon as possible.

CONCLUSIONS OF LAW

The agency correctly reduced Petitioner’s FoodShare benefits from \$200 to \$16, effective May 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 21st day of June, 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 June 21, 2013.

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