



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/149629

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 23, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on July 01, 2013, at Racine, Wisconsin.

The issue for determination is whether Petitioner's FoodShare allotment was correctly reduced.

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: Kathy Christman

Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner's FoodShare household consists of one person, herself.
3. Petitioner filed this appeal to contest the reduction in the amount of her FoodShare allotment from \$200 per month to \$16 per month effective May 1, 2013. A \$16 allotment was also issued

for June 2013. Petitioner's allotment has been \$200 for the past year but for these two months but for the months of January and February 2013 the allotment was also \$16.00.

4. Petitioner is a widow. Her income is the Social Security benefit from her husband. That is \$1296.00 per month. There has difficulty with the automatic attribution of that income to Petitioner's FoodShare case because of the Social Security number (SSN) – the Social Security benefit is under his number but the FoodShare case is in Petitioner's SSN. Thus there are months when Petitioner's income is incorrectly noted to be \$0.00 and she then receives the full FoodShare allotment for a single person household of \$200.00. When the cross-match problem is recognized and the income correctly included in the FoodShare allotment calculation, Petitioner's allotment has been \$16.00.
5. Petitioner's shelter costs of \$308.00 per month remained unchanged. She was credited with the standard deduction of \$149 and the standard utility allowance of \$442. She has been credited with medical expenses in excess of \$35.00. Though there was a question about verification of an AARP Dental Plan premium, Petitioner's allotment is \$16.00 with or without that expense.

### 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 an elderly blind or disabled member. *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 person, *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).* There is a cap of \$459.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.1 and 8.1.3.*

I have reviewed the FoodShare allotment calculation and do not find an error in the \$16.00 allotment calculation. The only error has been in reducing income to \$0.00 because of the automatic income attribution problem. Thus I conclude that Petitioner's FoodShare have been correctly calculated.

Finally, if expense or income change, Petitioner may note that that changes reported in once month are effective in the month after the report. *FSH, §6.1.3.3.*

### CONCLUSIONS OF LAW

That the agency has correctly calculated Petitioner's FoodShare allotment.

**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 Milwaukee,  
Wisconsin, this 17th day of July, 2013

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\sDavid D. Fleming  
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 17, 2013.

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