



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152197

PRELIMINARY RECITALS

Pursuant to a petition filed September 17, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on October 23, 2013, at Shawano, Wisconsin. At the request of the petitioner, the record was held open for three weeks for the submission of new evidence and a reconsideration summary by the county agency to DHA.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$115 to \$16 effective October 1, 2013, due to a decrease in her rental (shelter) deduction.

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: Sherri Seubert, ESS

Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Shawano County who receives FS benefits for a household of two (petitioner and her child).

2. The petitioner receives monthly Social Security of \$855 as of September, 2013.
3. Petitioner's child, AM, receives monthly Social security of \$480.
4. The petitioner had shelter (rent) expenses of \$550 per month. Her shelter expenses reduced to \$200 as of September, 2013. That decrease in rent resulted in a decrease in petitioner's shelter deduction in calculating her FS benefits, as documented by the county's FS budget screens for the petitioner during the relevant months.
5. The county agency sent a September 11, 2013 Notice of Decision to the petitioner stating that effective October 1, 2013, her FS benefits would be reduced from \$115 to \$16 due to the reduction in her shelter expense deduction as explained in Finding of Fact #4 above.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. §273.9(b). From the gross household income, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is \$134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction - for medical expenses exceeding \$35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and **(5) shelter expenses deduction - 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). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

During the October 23, 2013 hearing, the county agency representative provided petitioner a detailed explanation regarding the calculation of the October 1, 2013 reduction in her FS benefits. ESS Seubert explained and documented that due to a reduction in petitioner's shelter expense deduction, her FS benefits decreased as of October 1, 2013. See Finding of Fact #4 above. The petitioner was unable to refute the county's case that it had correctly calculated the petitioner's household income and shelter deduction for a FS household of two per FoodShare Handbook, 4.6.7, and thus reduced her FS benefits. In reviewing the county agency's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I conclude that the county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$115 to \$16 effective October 1, 2013, due to a decrease in her rental (shelter) deduction.

CONCLUSIONS OF LAW

The county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$115 to \$16 effective October 1, 2013, due to a decrease in her shelter deduction.

THEREFORE, it is

ORDERED

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 18th day of November, 2013

\sGary M. Wolkstein
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 November 18, 2013.

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