



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/152266

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed September 23, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on November 14, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined 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: Katherine May, HSPC Senior  
Milwaukee Enrollment Services  
1220 W. Vliet St.  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On August 21, 2013, Petitioner applied for FoodShare benefits. (Exhibit 3, pg. 26)

3. On September 6, 2013, the agency sent Petitioner a notice indicated that as of September 2013, she would be receiving benefits in the amount of \$200.00 per month. (Cares Worker Web Information; Exhibit 3, pg. 26; Testimony of Ms. May)
4. On September 12, 2013, Petitioner began receiving unemployment benefits in the amount of \$363.00 per week. (Exhibit 3, pg. 11)
5. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on September 23, 2013. (Exhibit 1)
6. On September 30, 2013, the agency sent Petitioner a notice indicating that effective November 1, 2013, her FoodShare benefits would be reduced from \$200.00 per month to \$16.00 per month. (Care Worker Web Information; Testimony of Ms. May)
7. Petitioner is neither elderly, blind or disabled. (Testimony of Petitioner)
8. Petitioner pays \$1000 per month in rent and is responsible for paying utilities. (Testimony of Petitioner)
9. Petitioner assistance group size is one. (Exhibit 3, pgs. 12 and 13)

### 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); 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 in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This was \$149 per month for a household of 1-3 people during part of the time in question, but effective October 1, 2013, was changed to \$152 per month, *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).*

During part of the time in question, the heating standard utility allowance (HSUA) was \$442, but Effective October 1, 2013, it was changed to \$450 per month.

During part of the time in question there was a cap of \$469.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member. Effective October 1, 2013, it was changed for \$478 per month.

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 initially appealed because she felt that the allotment she received of \$200 per month in September and October 2013 was not correct or sufficient to meet her needs. However, \$200 is the maximum allotment allowed for a one person household/assistance group. *FSH §8.1.2.*

At the hearing Petitioner stated that the \$16.00 allotment she received effective November 1, 2013 was not sufficient.

By November 2013, Petitioner was receiving \$363.00 per week in unemployment insurance benefits. Thus, her monthly income is calculated as follows:

$$\text{\$363 per week} \times 4.3 \text{ average weeks per month} = \text{\$1560.90 average monthly income}$$

Applying the applicable deductions to Petitioner’s income we have the following net income calculation, effective November 1, 2013:

Gross Income	\$1560.90	Rent	\$1000.00
No Earned Income Deduction		HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$704.45
No Medical Expenses exceeding \$35			
No Dependent Care Expenses			
<hr/>		Excess Shelter Expense	\$745.55, but the maximum allowed is \$478.00
Net Income	\$1408.90		
Excess Shelter Expense	- \$478.00		
<hr/>			
Net Income	\$930.90		

Effective November 1, 2013, individuals, in a household of one, with a net income of \$930.90 qualify for a FoodShare allotment of \$15.00 per month. As of October 1, 2013, when the agency initially budgeted Petitioner’s income, households with her income qualified for a FoodShare allotment of \$16.00 per month. *FSH §8.1.2.*

Petitioner stated that given her high rent, she cannot afford food. There is a list of food pantries that can be found at [http://www.needhelppayingbills.com/html/milwaukee\\_food\\_pantries.html](http://www.needhelppayingbills.com/html/milwaukee_food_pantries.html) and at <http://www.foodpantries.org/ci/wi-milwaukee>. In addition, Petitioner might receive additional information from Hunger Task Force: (414) 777-0483 or Feeding America (Formerly Second Harvest): (414) 931-7400.

**CONCLUSIONS OF LAW**

The agency correctly calculated Petitioner's FoodShare allotment.

**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 15th day of November, 2013.

---

\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 15, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability