



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/152803

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed October 11, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on November 05, 2013.

The issue for determination is it was correct is to reduce petitioner's FS from \$200.00 per month to \$189.00 per month effective November 1, 2013.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Katherine May, HSPC, Sr.  
Yia Xiong, Income Maintenance ["IM"] II  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. Petitioner's household size is 1 person (himself) and he was receiving an FS allotment of \$200.00 per month.
3. Effective April 1, 2009 the American Recovery and Reinvestment Act ["ARRA"] increased monthly FS allotments; the ARRA FS allotment increase expired effective November 1, 2013 and FS allotments were reduced.
4. Petitioner's monthly FS allotment decreased from \$200.00 per month to \$189.00 per month effective November 1, 2013 due to expiration of the 2009 ARRA increase.

### DISCUSSION

When calculating a monthly FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2011); *Foodshare Wisconsin Handbook* ["FWH"] 4.3.2. For purposes of FS *income* includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2011); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction<sup>1</sup>; dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction<sup>2</sup>; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2011); FWH 4.6.1.

Petitioner does not dispute that under the law, based on his household income, allowable deductions, and expiration of the 2009 ARRA increase<sup>3</sup> he is entitled to only \$189.00 per month in FS effective November 1, 2013.

---

<sup>1</sup> The excess medical deduction is only for members of the FS household who are elderly, blind, or disabled. Medical expenses incurred by a member of the FS household who is not elderly, blind, or disabled do not qualify for the excess medical deduction. Further, the excess medical deduction is only for that portion of medical expenses that is in excess of \$35.00 per month. 7 C.F.R. § 273.9(d)(3)intro. (2011); FWH 4.6.4.

<sup>2</sup> Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2011); FWH 4.6.7.1. When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2011); FWH 4.6.7.3. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2011); FWH 4.6.7.1.

<sup>3</sup> The federal American Recovery and Reinvestment Act of 2009 (P.L. 111-5, section 101) ["ARRA"] included an appropriation for an across-the-board increase in FS allotments of 13.6% as an economic stimulus measure. The appropriation increase was limited as to time and a rule formulation involving the "Thrifty Food Plan" ["TFP"]. The federal FS statute, at 7 U.S.C. § 2027, states that the Secretary of the Department of Agriculture shall limit allotments so that they "are not in excess of the appropriation for ...[the fiscal year]." When the Secretary determines that the participants' allotments will exceed the appropriation, the Secretary must direct the states to reduce allotments to align with the appropriation. *See, in accord*, federal code at 7 C.F.R. § 273.10(e)(4). The Secretary has made that determination, and has announced that the 13.6% increase must expire effective October 31, 2013. That declaration is reflected in a U.S. Department of Agriculture memo, "SNAP – Fiscal Year 2014 Cost-of-Living Adjustments and ARRA Sunset Impact on Allotments," issued August 1, 2013, available online at [http://www.fns.usda.gov/snap/rules/Memo/2013/FY\\_2014\\_COLA\\_memo.pdf](http://www.fns.usda.gov/snap/rules/Memo/2013/FY_2014_COLA_memo.pdf). *See, in accord*, Wisconsin state policy at *BEPS/DFS Operations Memo*, #13-27, September 9, 2013.

**CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct to reduce petitioner's FS from \$200.00 per month to \$189.00 per month effective November 1, 2013.

**NOW, THEREFORE, it is**

**ORDERED**

That 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, Room 651, 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 29th day of November, 2013

---

\sSean P. Maloney  
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 29, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability