



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152957

PRELIMINARY RECITALS

Pursuant to a petition filed October 22, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Barron County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 20, 2013, at Barron, Wisconsin.

The issue for determination is whether the county agency correctly determined the 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, Room 651
Madison, Wisconsin 53703

By: Candi Gillette

Barron County Department of Human Services
Courthouse Room 338
330 E Lasalle Ave
Barron, WI 54812

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Barron County.
2. The county agency determined that the petitioner is entitled to a \$145 monthly FoodShare allotment.

3. The petitioner lives alone.
4. The petitioner receives \$654.48 in social security. He earns \$249.75 managing his rental property.
5. The petitioner's medical bills average \$165.90 per month.
6. The petitioner's housing costs are \$275.98 per month.

DISCUSSION

The petitioner challenges the county agency's decision to set his FoodShare allotment at \$145 per month. The size of a FoodShare allotment depends upon net income and household size. Net income is determined after subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d) from gross income.

The petitioner receives \$654.48 in social security and earns \$249.75 managing his rental property for a total gross income of \$914.23. He is entitled to the \$153 standard deduction allowed for households with up to three members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). He is also entitled to an earned income deduction equal to 20% of his \$388.50 earned income, or \$49.95. *See* 7 CFR § 273.9(d)(2). The third deduction he is entitled to is the excess medical expense deduction which is allowed for unreimbursed monthly medical expenses that exceed \$35. 7 CFR §273.9(d)(3); *FoodShare Wisconsin Handbook*, § 4.6.4.1. His medical expenses are \$165.90, so he is entitled to a \$130.90 deduction.

Finally, he is entitled to the shelter deduction, which equals the amount that housing costs, including a standard utility allowance currently set at \$450, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. *FoodShare Wisconsin Handbook*. § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. The petitioner's housing costs consist of his \$275.98 shelter expenses plus the \$450 standard utility deduction, or \$725.98. Because there is a standard utility allowance, his actual utility costs are not considered. Deducting the \$152 standard allowance, his \$130.90 medical deduction, and the \$49.95 earned income deduction from his \$914.23 gross income, leaves him with \$581.38. Half of this is \$290.69. His \$725 in shelter costs exceed this amount by \$435.29, which is his shelter deduction. Subtracting all deductions he is allowed, the \$435.29 shelter deduction, the \$149 standard deduction, the \$130.90 medical deduction, and the \$49.95 earned income deduction from his \$914.23 gross income, leaves him with 146.09 in countable net income. The FoodShare allotment for a one-person household, the size of the petitioner's, with this income is \$145, the amount the agency correctly calculated. *FoodShare Wisconsin Handbook*, § 8.1.2.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner is entitled to a \$145 monthly FoodShare allotment.

THEREFORE, it is

ORDERED

The petitioner's 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, 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 16th day of December, 2013

\sMichael D. O'Brien
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 December 16, 2013.

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