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[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/153752

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 29, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Chippewa County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 17, 2013, at Chippewa Falls, 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: Cindy Carlson

Chippewa County Department of Human Services  
711 N. Bridge Street  
Chippewa Falls, WI 54729-1877

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Chippewa County.
2. The county agency notified the petitioner on November 29, 2013, that his FoodShare allotment would be reduced from \$189 to \$15 as of December 1, 2013.
3. The petitioner receives \$1,374 in social security each month.

4. The petitioner pays \$440 a month for rent.

### DISCUSSION

The size of a FoodShare allotment depends upon household size and net income. 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 \$1,374 in social security. He is entitled to the \$152 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 not entitled to an earned income deduction because all of his income is considered unearned. *See* 7 CFR § 273.9(d)(2). He is eligible for 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 worksheet submitted by the agency indicates that he does not pay any rent, but testimony at the hearing indicated that he pays \$440 per month; adding this to the \$450 standard utility deduction gives shelter costs of \$890 per month. Because there is a standard utility allowance, his actual utility costs are not considered. Deducting the \$152 standard allowance from his \$1,374 gross income leaves him with \$1,222. Half of this is \$611. His \$890 in shelter costs exceed this amount by \$279, which is his shelter deduction. Subtracting two deductions he is allowed, the \$279 shelter deduction, the \$152 standard deduction from his \$1,374 gross income, leaves him with \$943 in countable net income. The FoodShare allotment for a one-person household, the size of the petitioner's, with this income is \$15, the amount the agency correctly calculated. *FoodShare Wisconsin Handbook*, § 8.1.2. Thus, even allowing a shelter deduction does not affect the petitioner's benefits.

I note that his net income would have to be less than \$576.70 to receive any more FoodShare benefits. *Id.* I point this out because I cannot tell if he was given credit for his Medicare premium. However, even if he was entitled to it and did not receive it, it would not affect his FoodShare allotment.

### CONCLUSIONS OF LAW

The county agency correctly determined the petitioner's 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 20th day of December, 2013

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\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 20, 2013.

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