



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/154140

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 12, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Waupaca County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on January 27, 2014, at Waupaca, Wisconsin.

The issue for determination is whether the Department erred in its determination of a \$15 FS allotment for petitioner after her October application for FS eligibility.

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: Carmen Snell

Waupaca County Department of Social Services  
811 Harding Street  
Waupaca, WI 54981-2087

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Waupaca County.
2. Petitioner is head of a FS group of two.
3. Income for the unit is \$742 monthly from employment, her husband's annuity income of \$171.61, and his SSDI of \$1507.

4. The couple has not mortgage or rent expense.
5. The agency sought additional verification documents from petitioner by the issuance of notices sent on 10/25/13, 11/20/13, and 11/26/13.
6. Petitioner filed a request for hearing on December 16, 2013.
7. On 12/23/2013 the Department issued a notice to petitioner informing her that she was eligible for FS and would be receiving a \$15 FS allotment.

### **DISCUSSION**

Petitioner filed her request for hearing on December 16, 2013. On the request, she claimed she was appealing the denial of FS. But at that point she had not been denied. Nine days later, she was approved for \$15 per month. At hearing, she claimed the appeal was to contest the allotment (which she could not have been aware of at the time of the filing of the request for hearing). In the interest of efficiency, that is the issue I address herein.

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which was, at the relevant time of the agency action, \$142 per month for a three person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FoodShare Wisconsin Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin Handbook, App. 4.6.6. The final deduction is for shelter expenses; 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); FoodShare Wisconsin Handbook, App. 4.6.7.

Petitioner did not dispute the income set forth in finding of fact number 3 totalling \$2,420.61. The gross income limit for a household of two is \$2,586. See *FS Handbook* §§ 4.2.1, 8.1.1. The net income limit for a household of two is \$1,293. *FS Handbook*, App. 8.1.1.

Petitioner's household income is below the gross income limit. This is clear from the testimony & exhibits. Thus, she is categorically eligible for FS. After the earned income deduction (\$148.08) and the standard deduction (\$152 - there is no excess shelter deduction), and a \$69.90 excess medical expense deduction petitioner's net income was \$2,050.63. According to *FS Handbook* 8.1.2, the FS allotment for a 2-person household with a net income under \$2130.03 but over \$1,103.36 is \$15. That is, petitioner's allotment would still be \$15 even if the household income was 900 dollars less. I cannot find an error in the calculations of the Department.

### **CONCLUSIONS OF LAW**

The Department did not err in determining a \$15 FS allotment.

**THEREFORE, it is**

**ORDERED**

That this 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 29th day of January, 2014

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\sJohn P. Tedesco  
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 January 29, 2014.

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