



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/154593

PRELIMINARY RECITALS

Pursuant to a petition filed January 02, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a telephonic hearing was held on March 18, 2014, at Madison, Wisconsin.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$76 to \$73 effective January 1, 2014, due to a cost of living increase in his Social Security retirement benefits.

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: Tari Donnelly, ESS

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County who resides in a household of one.
2. The petitioner receives FoodShare (FS) benefits for a household of one.

3. During December, 2013, the county agency was notified that petitioner's Social Security retirement would increase as of January 1, 2014.
4. The county agency sent a December 9, 2013 Notice of Decision to the petitioner stating that effective January 1, 2014, his FS benefits would be reduced from \$76 to \$73, due to the petitioner's cost of living increase in his Social Security retirement benefits.

DISCUSSION

In determining the amount of FS to be issued each month, the county must **budget all income of the FS household, including all earned and unearned income.** 7 C.F.R. §273.9(b). From the gross household income, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is \$134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction - for medical expenses exceeding \$35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and (5) shelter expenses deduction - 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). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

During the March 18, 2014 hearing, county agency representative, ESS Tari Donnelly, provided petitioner a detailed explanation regarding the calculation of the January 1, 2014 reduction in his FS benefits, and that the county is simply following FS law and policy. During that hearing, petitioner was unable to refute that the county agency correctly calculated the petitioner's FS benefits for a household of one based upon budgeting the cost of living increase for his Social Security retirement. In reviewing the county agency's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I must conclude that the county agency correctly reduced the petitioner's FoodShare benefits from \$76 to \$73 effective January 1, 2014.

CONCLUSIONS OF LAW

The county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$76 to \$73 effective January 1, 2014, due to a cost of living increase in his Social Security benefits.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision.** Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 21st day of March, 2014

\sGary M. Wolkstein
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 21, 2014.

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