



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/155747

PRELIMINARY RECITALS

Pursuant to a petition filed February 27, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a telephonic hearing was held on March 26, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare (FS) benefits from \$185 to \$106 effective February 1, 2014, due to a decrease in her allowable medical expense deduction.

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: Pang Thao-Xiong, IM advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a disabled resident of Milwaukee County who receives FoodShare (FS) benefits for a household of one.
2. The petitioner receives monthly Social Security Disability Income (SSDI) of \$954 as of February, 2014.

3. Petitioner had monthly rent (shelter expense) of \$475.00.
4. The petitioner documented her medical expenses, and MES calculated her excess medical expense deduction to be \$178.07 (\$213.07 - \$35 medical deduction) effective January 1, 2014. Her documented allowable medical expense deduction significantly reduced to \$3 (\$38 - \$35 medical deduction) as of February 1, 2014. That decrease in allowable medical expense deduction resulted in a reduction in her FS benefits effective February 1, 2014, as documented by the county's FS budget screens for the petitioner during the relevant months. See Exhibit 1.
5. Milwaukee Enrollment Services (MES) sent a January 16, 2014 Notice of Decision to the petitioner stating that effective February 1, 2014 her FS benefits would be reduced from \$185 to \$106 due to the reduction in allowable medical expense deduction, as explained in Finding of Fact #4 above. See Exhibit 2.

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 \$152 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 26, 2014 hearing, MES representative, Pang Thao-Xiong provided petitioner a detailed explanation regarding the calculation of the February 1, 2014 reduction in her FS benefits due to a significant decrease in her allowable medical expense deduction. Ms. Thao-Xiong explained and documented that due to a reduction in petitioner's medical expense deduction, her FS benefits decreased from \$185 to \$106 effective February 1, 2014. See Finding of Fact #4 above.

The petitioner was unnecessarily argumentative during the hearing, and made many factual allegations. However, many of petitioner's allegations were inaccurate statements regarding information relevant to the calculation of the February 1, 2014 reduction of her FS benefits. Her testimony was so inconsistent that this ALJ pointed out to her several of the contradictions or inaccuracies of her testimony. The petitioner was unable to refute with any reliable evidence that MES accurately determined the petitioner's income, rent, and her reduced allowable medical expense deduction which thus reduced her FS benefits. In fact, by the end of the hearing, petitioner admitted that there was no longer any issue in dispute regarding the reduction of her FS benefits as of February 1, 2014. In reviewing MES's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I conclude that Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare (FS) benefits from \$185 to \$106 effective February 1, 2014, due to a decrease in petitioner's medical expense deduction.

CONCLUSIONS OF LAW

Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare (FS) benefits from \$185 to \$106 effective February 1, 2014, due to a decrease in her allowable medical expense deduction.

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 18th day of April, 2014

\sGary M. Wolkstein
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 April 18, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability