



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/155881

PRELIMINARY RECITALS

Pursuant to a petition filed March 05, 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 hearing was held on April 01, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly terminated Petitioner's FoodShare benefits, effective March 1, 2014.

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: Katherine May, HSPC Sr.
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner completed a FoodShare renewal in January 2014. (Exhibit 2, pgs. 1 and 9)

3. On February 18, 2014, the agency sent Petitioner a notice indicating that as of March 1, 2014, she was no longer enrolled in the FoodShare program because she was over the income limit. (Exhibit 2, pgs. 44-48)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on March 5, 2014. (Exhibit 1)
5. Petitioner's assistance group size is 4. (Exhibit 2, pg. 46; testimony of Petitioner)
6. Petitioner receives \$678 per month in kinship care benefits for three children. (Exhibit 2, pg. 46; testimony of Petitioner)
7. At the time of application, the Petitioner provided two bi-weekly pay stubs: one dated January 16, 2014, showing that Petitioner worked an average of 68 hours per pay period and was paid \$20.82 an hour.

68 hours x \$20.82 = \$1,415.76 average earned per pay period

\$1,415.76 x 2.15 average bi-weekly pay period per month = \$3043.88 average monthly income.

(Exhibit 2, pgs. 29 and 30)
8. Petitioner pays \$700 per month for mortgage, \$287.00 per month for property taxes, and \$80.00 for homeowner's insurance. (Exhibit 2, pg. 46; testimony of Petitioner)

DISCUSSION

To receive FoodShare benefits a household must have gross income at or below 200% of the Federal Poverty Level (FPL), though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.*

Once a household passes the gross income limit, the household is tested to see if its income is below certain net income limits. *Id.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), §§4.1.1 and 4.3.1.*

Eligibility determinations are based upon prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

200% of the FPL for a household of 4 is \$3926.00. Petitioner's gross household income works out to be \$3721.88 (\$3043.88 earned income + \$678 kinship care payments). Petitioner's household income is below the 200% FPL limit. Thus, the household must be tested to see if it meets net income limit.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$163 per month for a household of 4 people. *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;

For Petitioner this is $\$3043.88 \times .20 = \608.78

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;

- (4) dependent care deduction for child care expenses, 7 CFR § 273.9(d)(4); and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

Effective October 1, 2013, the Heating and Standard Utility Deduction was \$450 per month.

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

Applying the applicable deductions to Petitioner’s income we have the following net income calculation, effective November 1, 2013:

Gross Income	\$3721.88	Mortgage	\$700.00
Earned Income Deduction	-\$608.78	Insurance	+\$80.00
Standard Deduction	-\$163.00	Property Tax	+\$287.00
No Medical Expenses exceeding \$35		HSU	+\$450.00
No Dependent Care Expenses		-50% net income	-\$1475.05
		<u>before shelter deduction</u>	
Net Income before shelter deduction	\$2950.10	Excess Shelter Expense: \$41.95	
Excess Shelter Expense	-\$41.95		
<hr/>			
Net Income	\$2908.15		

A household of four with a net income of \$2908.15 is not eligible to receive FoodShare benefits. The net income limit for a household of four is \$1963.00. *FSH §§ 8.1.1 and 8.1.2.*

Petitioner indicated that she started new employment in mid to late February 2014. However, she did not timely report this change. As such, the agency acted upon the best information that it had, when it made Petitioner’s eligibility determination for March 1, 2014.

CONCLUSIONS OF LAW

The agency correctly terminated the Petitioner’s FoodShare benefits effective March 1, 2014.

THEREFORE, it is ORDERED

That the petition 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 Milwaukee,
Wisconsin, this 10th day of April, 2014.

\sMayumi M. Ishii
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 10, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability