



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/156270

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 19, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on April 2, 2014, by telephone.

The issue for determination is whether the agency correctly reduced the petitioner's FS allotment effective April 1, 2014.

There appeared at that time 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: Karen Mayer, fair hearing coordinator  
Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. The petitioner has an ongoing FS case as a household of one person. She reported updated earned income in February 2014. She submitted verification via February paystubs, which showed pay of

\$9.00 hourly, an average of 59.25 hours per bi-weekly pay period, and gross monthly income of \$1,146.40 (calculated per FS regulation).

3. On March 10, 2014, the Department issued written notice to the petitioner advising that her FS would be reduced from \$173 to \$102 effective April 1, 2014. The basis for reduction was increased earned income. Exhibit 5. The petitioner timely appealed, and aid was continued pending appeal.
4. The petitioner has a shelter expense of \$612, plus utilities. She does not pay out child support, and does not incur a dependent care expense to go to work.

**DISCUSSION**

The petitioner questions the correctness of the calculation of the FS allotment amount for April 2014, onward. The gross income was based on the paystubs from February, submitted by the petitioner. There is no dispute as to the amounts that were shown on the February paystubs, or the agency’s arithmetic in averaging those paystubs. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at [www.emhandbooks.wisconsin.gov/fsh/](http://www.emhandbooks.wisconsin.gov/fsh/). For earned income that is received biweekly, the agency is directed to develop a biweekly average, and then multiply that figure by 2.15 to account for three-paycheck months. For weekly income, the multiplier is 4.3. 7 C.F.R. §273.10(c)(2).

In calculating the petitioner’s April allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department’s *FS Wisconsin Handbook*. The federal rule requires that the county start with gross, rather than net, income, and allow only a limited number of identified deductions from that income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a case with one to three persons is currently set at \$152, per *FS Wisconsin Handbook*, 8.1.3. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly given here. A Dependent Care Deduction is also taken if the petitioner incurred day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person’s allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. There is no record of the latter three expenses here. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii). Based on a \$612 shelter cost plus the \$450 heating utility standard, the petitioner’s shelter costs totaled \$1,062. This did exceed half of the adjusted income (\$382.60), so the maximum excess shelter cost of \$478 was deducted in the allotment calculation.

Thus, the April 2014 allotment calculation correctly looked like this:

Gross income	1146.49
Minus Earned Inc. Deduction	- 229.29
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-152.00</u>
Adjusted Income	765.20
Minus Shelter Deduction	<u>-478.00</u> (\$478 is the maximum)
Net Income	287.20

The correct allotment for one person with net income of \$287.20 was \$102 in April 2014. *FS Wisconsin Handbook*, 8.1.2, p.3.

**CONCLUSIONS OF LAW**

1. The Department correctly determined the petitioner's FS allotment for April 2014.

**THEREFORE, it is**

**ORDERED**

That the petition is 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 3rd day of April, 2014

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\sNancy J. Gagnon  
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 3, 2014.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability