



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/156719

PRELIMINARY RECITALS

Pursuant to a petition filed April 07, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 24, 2014, at Sheboygan, Wisconsin.

The issue for determination is whether the agency correctly determined the Petitioner's FoodShare allotment for March, April, May and June 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jan Hinz, Economic Support Specialist II
Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Sheboygan County.
2. On January 13, 2014, the agency determined the Petitioner's FoodShare allotment for February 2014 to be \$15.00. (Exhibit 8, pg. 3)

3. On April 9, 2014, the agency determined the Petitioner’s FoodShare allotment for May 2014 to be \$15.00. (Exhibit 8, pg. 4)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 7, 2014.
5. Petitioner lives alone, so his assistance group size is one. (Testimony of Petitioner)
6. Petitioner’s sole source of income comes from Social Security Disability Benefits, in the amount of \$1,870.90 per month; Petitioner pays \$104.90 per month for his Medicare Premium. (Testimony of Ms. Hinz, Exhibit 6, pgs. 3; Exhibit 8, pgs. 3-5)
7. Petitioner pays rent in the amount of \$425.00. (Testimony of the Petitioner)
8. Petitioner receives energy assistance. (Testimony of Petitioner)
9. Petitioner also reported various monthly medical expenses:

March and April:	\$243.52
	\$104.90
	\$36.12
	\$20.64
	\$7.38
	\$412.56
May and June:	\$243.52
	\$104.90
	\$152.03
	\$20.41
	\$178.79
	\$699.65

(Testimony of Petitioner; Cares Summary Screen; Testimony of Ms. Hintz)

**DISCUSSION**

To receive FoodShare benefits a household must have income below both gross and net income limits, 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.* 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), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

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 \$152 per month, *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)*;

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

For Petitioner this would be as follows:

March and April: \$412.56-\$35.00 = \$377.56  
 May and June: \$699.65-\$35.00 = \$664.65

- (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).

During part of the time in question, the heating standard utility allowance (HSUA) 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 February 1, 2014:

Gross Income	\$1870.90	Rent	\$425.00
No Earned Income Deduction		HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$670.67
Medical Expenses exceeding \$35	-\$377.56		
No Dependent Care Expenses		<hr/>	Excess Shelter Expense \$204.33
<hr/> Net Income	\$1341.34		
Excess Shelter Expense	- \$204.33		
<hr/> Net Income	\$1137.07		

Individuals in a household of one, with a net income of \$1137.01, qualify for a FoodShare allotment of \$15.00 per month. *FSH §8.1.2.*

Applying the applicable deductions to Petitioner’s income we have the following net income calculation, effective May 1, 2014:

			FOO/156719
Gross Income	\$1870.90	Rent	\$425.00
No Earned Income Deduction		HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$527.13
Medical Expenses exceeding \$35	-\$664.65		
No Dependent Care Expenses		Excess Shelter Expense	\$347.87
Net Income	\$1054.25		
Excess Shelter Expense	- \$347.87		
Net Income	\$706.37		

Individuals in a household of one, with a net income of \$706.37, qualify for a FoodShare allotment of \$15.00 per month. *FSH §8.1.2.* (For single person households, the \$15.00 allotment is for those households that have income at or above \$576.70. *Id.*)

### CONCLUSIONS OF LAW

The agency correctly determined the Petitioner's FoodShare allotment for March through June 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 25th day of June, 2014

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\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 June 25, 2014.

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