



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/157069

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 23, 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 May 13, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined Petitioner’s April 2014 FoodShare allotment.

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: Jose Silvestre, Income Maintenance Specialist Advanced  
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 # ) is a resident of Milwaukee County.
2. On March 27, 2014, the Petitioner completed a renewal. (Exhibit 3; Exhibit 4, pg. 4)

3. On April 4, 2014, the agency sent the Petitioner a notice indicating that as of April 1, 2014, she would continue to receive FoodShare benefits in the amount of \$239 per month. (Exhibit 4, pgs. 20-27)
4. On April 14, 2014, the agency sent the Petitioner a notice indicating that as of May 1, 2014, her FoodShare benefits would increase from \$239.00 per month to \$955.00 per month. (Exhibit 4, pgs. 28-33)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 23, 2014. (Exhibit 1)
6. In March 2013, Petitioner received Unemployment Insurance Benefits (UIB) in the amount of \$370.00 per week, on March 3, March 10, March 17 and March 24, 2014. (Exhibit 5)
7. On April 7, 2014, the Petitioner received notice indicating that, "All unemployment insurance benefits have been paid with payment for week 14/14." (Exhibit 2)
8. Week 14/14 is the week beginning March 30, 2014 and ending April 5, 2014. (<http://dwd.wisconsin.gov/uiben/calendars.htm>)
9. Two of Petitioner's sons each receive Supplemental Security Income, in the amount of \$620.43 per month. (Exhibit 4, pgs. 24, 31; Exhibit 3, pgs. 8 and 9)
10. Petitioner's household consists of seven people, Petitioner and her six children. (Exhibit 3, pgs. 1-3)
11. Petitioner pays rent in the amount of \$950.00 per month and is responsible for paying utilities. (Exhibit 4, pgs. 24 and 31)
12. Petitioner reported no out of pocket medical expenses for the sons who are receiving Supplemental Security Income. (Exhibit 3)

### DISCUSSION

To receive FoodShare benefits a household must have income below 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. *Emphasis added. 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 \$219 per month for a household of 6 or more 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)*;
- (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) excess shelter expense (50% of net income remaining after other deductions (NIRAOD)). *7 CFR § 273.9(d)(5)*.

The heating standard utility allowance (HSUA) is \$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.*

Petitioner filed an appeal, because she does not feel the agency correctly calculated her FoodShare allotment for April 2014.

Because household income is budgeted prospectively per *FSH, §4.1.1*, the agency needed to look at Petitioner’s actual March 2014 income, to determine her April 2014 FoodShare budget and allotment.

In March 2014, Petitioner was receiving \$370.00 per week in unemployment insurance benefits (UIB). Thus, her monthly income is calculated as follows:

$$\text{\$370 per week} \times 4.3 \text{ average weeks per month} = \text{\$1591 average monthly income}$$

Including her sons’ Supplemental Security Income, Petitioner’s total gross household income works out to be:

\$1591 UIB income  
 +\$620.43 SSI Income for son 1  
 +\$620.43 SSI Income for son 2

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\$2831.86 Total gross income

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

Gross Income	\$2831.96	Rent	\$950.00
No Earned Income Deduction		HSU	+\$450.00
Standard Deduction	-\$219.00	50% NIRAOD	-\$1306.43
No Medical Expenses exceeding \$35			
No Dependent Care Expenses			
		Excess Shelter Expense	\$93.57
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NIRAOD	\$2612.86		
Excess Shelter Expense	-\$93.57		
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Net Income	\$2519.29		

Individuals, in a household of seven, with a net income of \$2519.29 qualify for a FoodShare allotment of \$239 per month. *FSH §8.1.2*

**CONCLUSIONS OF LAW**

The agency correctly determined the Petitioner's FoodShare allotment for April 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).

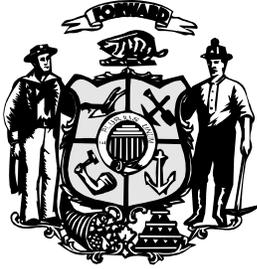
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson 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 12th 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 12, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability