



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/157188

PRELIMINARY RECITALS

Pursuant to a petition filed April 25, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to FoodShare benefits (FS), a telephonic hearing was held on June 04, 2014, at Fond Du Lac, Wisconsin. At the request of the parties, the record was held open until June 11, 2014 for the petitioner to submit her argument and documents to support her allegation that her medical expense deduction was incorrectly calculated in determining her May, 2014 FS reduction to \$15, and then held open until June 18, 2014 for the county agency's response and documentation regarding any revisions to the agency's calculation of petitioner's medical expense deduction and resultant changes to petitioner's FS benefits as of May, 2014. Both parties timely submitted their arguments and documents to DHA which are received into the record. The petitioner's documents are marked as Exhibit A, and the county agency's documents are marked as Exhibit B.

The issue for determination is whether the county agency correctly and accurately calculated and reduced the petitioner's FoodShare (FS) benefits from \$61 to \$15 effective May 1, 2014, based upon an alleged reduction in petitioner's medical expense deductions.

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: Deborah Bohlman, ESS
Fond Du Lac County Department of Social Services
87 Vincent Street
Fond Du Lac, WI 54935-4595

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 66 year old resident of Fond Du Lac County.
2. The petitioner has received FoodShare (FS) benefits since about February, 2011 for a household of one.
3. The petitioner receives monthly Social Security Retirement benefits of \$1,694.90.
4. As of about January, 2014, petitioner reported \$2,397.64 in total reported shelter and utility costs.
5. The county agency sent a March 31, 2014 Notice of Decision to the petitioner stating that her FoodShare (FS) benefits would be reduced from \$61 to \$15 effective May 1, 2014, due to an alleged decrease in her medical expense deduction.
6. The record was held open for written closing arguments with documents to be submitted by each party to DHA and to the other party. See Preliminary Recitals above.
7. In petitioner's June 10, 2014 detailed submission and documents, the petitioner asserted that with applying the "correct" medical expense deduction her FS benefits should increase from \$15 to \$49 as of May, 2014.
8. In the county agency's thorough, detailed, and well-documented June 18, 2014 response, ESS Bohlman concluded that petitioner is correct that her medical expense deduction should increase and her FS benefits as of May, 2014 should also increase. In the conclusion to that June 18, 2014 response, Ms. Bohlman stated in pertinent part: "Ms. [REDACTED] is entitled to additional deductions based on information submitted June 10, 2014 and additional review of the CVS receipts. The agency may delay applying the one-time deductions until a decision on this matter is received in order to determine the best possible use of the expenses."

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 June 4, 2014 hearing, the petitioner explained that she was only disputing the calculation of her medical expense deduction in this case. During that hearing, the county agency representative, ESS Deborah Bohlman, provided petitioner an explanation regarding the calculation of the May 1, 2014 reduction in her FS benefits to be \$15 due to an alleged decrease in her allowable medical expense deduction. The county also indicated in its May 16, 2014 summary that it determined that the petitioner's total monthly medical cost was \$345.45. The medical expense deduction is the monthly medical costs in excess of \$35 resulting in the agency May 16, 2014 determination of petitioner's medical expense deduction to be \$301.45 based upon FSHB 4.6.4.

However, based upon the testimony of the petitioner during the June 4, 2014 hearing and the submission of additional documentation regarding her medical expenses in her June 10, 2014 submission to the county (and to DHA), Ms. Bohlman basically stipulated that petitioner did have an increase in her medical expense deduction. Ms. Bohlman explained in detail the county agency's June 18, 2014 submission of the revisions in its calculation of petitioner's medical expense deductions (and shelter deductions) for the petitioner for each of the medical expenses and shelter expenses in question for this appeal. The county agency's June 18th analysis appears correct and accurate. However, Ms. Bohlman did not include a final calculation of the agency revised determination of petitioner's FS benefits as of May, 2014. While Ms. Bohlman agreed that petitioner was entitled to additional deductions, the county needs to complete its re-determination and issue a new, revised notice to the petitioner retroactive to May 1, 2014.

CONCLUSIONS OF LAW

The county agency incorrectly and inaccurately calculated and reduced the petitioner's FoodShare (FS) benefits from \$61 to \$15 effective May 1, 2014, based upon an alleged reduction in petitioner's medical expense deductions.

THEREFORE, it is

ORDERED

The matter is remanded to the county agency with instructions to: a) complete its re-calculation of the petitioner's FoodShare (FS) benefits as of May 1, 2014 based upon its June 18, 2014 analysis; b) issue a revised Notice of Decision to the petitioner explaining the re-calculation of petitioner's FS benefits as of May 1, 2014, and c) issue to the petitioner supplemental FS benefits based upon an increase in her medical expense deduction retroactive to May 1, 2014, within 10 days so the date of this Decision.

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 23rd day of June, 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 June 23, 2014.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability