FH
[redacted]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION

FOO/157477

PRELIMINARY RECITALS

Pursuant to a petition filed May 06, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 04, 2014, at Madison, Wisconsin.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare (FS) benefits from $189 to $15 effective April 1, 2014, due to a decrease in his shelter deduction.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:
Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Tari Donnelly, ESS
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:
Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [redacted]) is a resident of Dane County who receives FS benefits for a household of two (petitioner and her child).
2. The petitioner receives monthly Social Security of $820.

3. Petitioner receives monthly self-employment income of $850 from his tenant for the rent of the upstairs of his home.
4. During a March 12, 2014 review, a county agency ESS worker discovered that the county erroneously granted twice a shelter deduction in calculating the petitioner's FS benefits. The first shelter deduction was approved as an expense on his self-employment income report form (SEIRF), and also incorrectly approved a shelter deduction for petitioner's mortgage on his home. See Exhibit 1.
5. The county agency's FS budget screens for March and April, 2014 confirmed the calculation of petitioner's correctly reduced FS benefits without a second and incorrect shelter deduction. See Exhibit 4.
6. The county agency sent a March 19, 2014 Notice of Decision to the petitioner stating that effective April 1, 2014, his FS benefits would be reduced from $189 to $15 due to the reduction in his shelter expense deduction as explained in Findings of Fact #4 and #5 above. See Exhibit 2.

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 $134 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 county agency representative provided petitioner a detailed explanation regarding the calculation of the April 1, 2014 reduction in his FS benefits. ESS Donnelly explained and documented that due to the agency's error to grant a double shelter deduction to the petitioner, his FS benefits decreased as of April 1, 2014 once that error was corrected. See Finding of Fact #4 above. The petitioner was unable to refute the county's case that it had correctly calculated the petitioner's household income and shelter deduction for a FS household of one per FoodShare Handbook, 4.6.7, and thus reduced his FS benefits as of April 1, 2014. In reviewing the county agency's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I conclude that the county agency correctly reduced the petitioner's FoodShare (FS) benefits from $189 to $15 effective April 1, 2014, due to the correction and resultant decrease in his shelter deduction.

CONCLUSIONS OF LAW

The county agency correctly reduced the petitioner's FoodShare (FS) benefits from $189 to $15 effective April 1, 2014, due to the correction and resultant decrease in his shelter deduction.

THEREFORE, it is **ORDERED**

The petition for review herein be and the same is hereby 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 23rd day of June, 2014

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\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.

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