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[REDACTED]

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

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/157529

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 08, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Walworth County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on June 19, 2014.

The issue for determination is whether \$95 per month is the correct amount of petitioner's FS allotment.

There appeared at that time via telephone 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: Carol Wicklund, ESS  
Walworth County Department of Human Services  
W4051 County Rd NN  
Elkhorn, WI 53121-1006

**OTHER PERSON PRESENT:**

Corinne Balter, Administrative Law Judge (observing only)

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]; 65 years old) is a resident of Walworth County, Wisconsin.

2. Beginning in May 2014 the County issued \$95 per month in FS to petitioner.
3. The County calculated the amount of \$95 per month using the following: gross income of \$859 (disability check); standard deduction \$152; medical expense \$100; rent of \$200; and, standard utility deduction of \$450.
4. Petitioner's \$100 per month medical expense is a monthly payment on a dental bill of \$596.
5. Petitioner is paying \$109 per month on a student loan; the \$109 is withheld from her \$859 disability check so only \$750 (\$859 - \$109) is actually deposited in her account every month.

### DISCUSSION

The amount of a person's monthly FS allotment depends, in part, on the person's income: in general, the higher the income the lower the allotment. 7 C.F.R. § 273.10 (2014); *FoodShare Wisconsin Handbook* ["FWH"] 4.3.1 & 7.1.1. When calculating an FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2014); FWH 4.3.2. For purposes of FS *income* includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2014); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction, dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction<sup>1</sup>; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2014); FWH 4.6.1.

The excess medical deduction is only for members of the FS household who are elderly, blind, or disabled. Medical expenses incurred by a member of the FS household who is not elderly, blind, or disabled do not qualify for the excess medical deduction. 7 C.F.R. § 273.9(d)(3)intro. (2014); FWH 4.6.4. Further, the excess medical deduction is only for that portion of medical expenses that is in excess of \$35.00 per month. 7 C.F.R. § 273.9(d)(3)intro. (2014); FWH 4.6.4. Medical expenses for previously acquired charges that have not yet been paid<sup>2</sup>, as well as current payments, are allowed. Medical expense payments made during the certification period are allowable. However, medical expenses paid prior to the certification period are not allowable. FWH 4.6.4.1.

Petitioner argues that her \$109 monthly student loan payment should be deducted from her income. However, as detailed above, student loan payments are not an allowed deduction.

Petitioner submitted a *Treatment Plan* for future dental treatment that will cost \$1,216. She argues that this should be counted an excess medical deduction. However, as explained above, the excess medical deduction is only for medical expenses for previously acquired charges that have not yet been paid and for current payments.

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<sup>1</sup> Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2014); FWH 4.6.7.1. When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2014); FWH 4.6.7.2. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2014); FWH 4.6.7.1.

<sup>2</sup> Previously acquired charges include charges incurred anytime before or during the certification period, as long as the individual is still obligated to pay the expense and the incurred expense has not been previously allowed as a FS deduction.

Petitioner testified that she is diabetic and needs at least \$200 per month to eat properly (“Healthy Eating [sic] is a must in my position to stay healthy and alive.”). She testified that she is very angry because her brother was also diabetic and she found him dead in his bed one morning. She testified he also received FS that the cause of his death was his inability to eat properly because “Wisconsin has a budget” and the budget was more important than his health. Petitioner’s testimony was sincere and understandable -- however, the law as detailed above, must still be followed.

**CONCLUSIONS OF LAW**

For the reason discussed above, \$95 per month is the correct amount of petitioner’s FS allotment.

**THEREFORE, it is**

**ORDERED**

That 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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Sean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals





**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 23, 2014.

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