



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/157698

PRELIMINARY RECITALS

Pursuant to a petition filed May 19, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on June 12, 2014, by telephone.

The issue for determination is whether or not the reduction in petitioner's FS benefits is correct.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner receives FS as a household of one person.
3. In May 2014 petitioner received \$180 in monthly FS benefit.
4. Effective June 1, 2014 petitioner's monthly FS benefit was reduced to \$54.00. This reduction was due to a reduced utility expense of only \$30.00 for petitioner's phone. All other utilities are included in petitioner's rent.

5. The agency informed petitioner of this reduction in a notice dated May 20, 2014.

DISCUSSION

Although the petitioner seems to understand the utility expense as part of his shelter deduction, he does not believe that his monthly FS benefit is enough. He also believes that he is being penalized for responsibly reducing his shelter costs.

The petitioner received a reduction in his monthly FS benefit when his utility expense was reduced from \$450.00 to \$30.00. The petitioner’s only monthly utility cost is his phone. The monthly phone utility allowance is \$30.00. *FS Wisconsin Handbook*, 8.1.3. The petitioner does not have additional utility expenses as his other shelter expenses are included in his monthly rent.

The standard utility deduction of \$450.00 was previously used to calculate the petitioner’s FS benefit. Using only the phone allowance of \$30.00 as the petitioner’s utility deduction resulted in a significant decrease in his FS benefit. Were the standard \$450.00 utility deduction used to calculate the petitioner’s monthly FS benefit, the petitioner would receive \$180.00 in monthly FS benefit. Correctly using only the \$30.00 phone allotment as the utility deduction, the petitioner’s monthly FS benefit is \$54.00.

In calculating the petitioner’s June allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department’s *FS Wisconsin Handbook*. The federal rule requires that the county start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a case with one to three persons is currently set at \$152, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). None of those deductions apply in this case. An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii). Based on a \$500 shelter cost plus the \$30 heating utility, the petitioner’s shelter costs totaled \$530. This exceeded half of the adjusted income (\$326.39), so the excess shelter cost of \$203.61 was deducted in the allotment calculation.

Thus, the June 2014 allotment calculation correctly looked like this:

Gross income	804.78
Minus Earned Inc. Deduction	-000.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-152.00</u>
Adjusted Income	652.78
Minus Shelter Deduction	<u>-203.61</u>
Net Income	449.19

The correct allotment for one person with net income of \$449.19 was \$54.00 in June 2014. *FS Wisconsin Handbook*, 8.1.2, p.4.

If the agency had used the standard utility deduction of \$450.00, then the June 2014 shelter deduction would have been as follows: \$500.00 shelter cost plus the 450.00 standard utility deduction, the

petitioner’s shelter costs totaled \$950.00. This exceeded half of the adjusted income (\$326.39), so the excess shelter cost of \$623.61 was deducted in the allotment calculation.

Thus, using the \$450.00 standard utility deduction the June 2014 allotment calculation would have incorrectly looked like this:

Gross income	804.78
Minus Earned Inc. Deduction	-000.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-152.00</u>
Adjusted Income	652.78
Minus Shelter Deduction	<u>-623.61</u>
Net Income	29.17

The allotment for one person with net income of \$29.17 was \$180.00 in June 2014. *FS Wisconsin Handbook*, 8.1.2, p.1.

Prior to the 2014 Farm Bill the Wisconsin Department of Administration (DOA) issued an annual energy assistance payment of \$1 to all FS households who were not already receiving energy assistance (WHEAP). Exhibit 2. This allowed Wisconsin to grant all FS households the Heating Standard Utility Allowance (HSUA) of \$450. Exhibit 2. The actual utility usage did not matter.

The 2014 Farm Bill changed this practice. The 2014 Farm Bill requires a household to have received an energy assistance payment of greater than \$20 to receive the HSUA of \$450. Exhibit 2, 7 U.S.C. 2014(e)(6)(C)(ii)(I) Therefore, “households that have not received WHEAP will receive the appropriate utility standard based on the utility obligation(s) incurred by the household.” Exhibit 2. The petitioner did not receive WHEAP and his only monthly utility obligation is his phone.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner is to receive \$54.00 in monthly FS benefits.

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 25th day of June, 2014

\sBrian C. Schneider
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.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability