



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158042

PRELIMINARY RECITALS

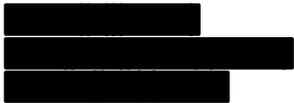
Pursuant to a petition filed May 30, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 26, 2014, at Racine, Wisconsin.

The issue for determination is whether the Racine County Department of Human Services correctly determined the Petitioner’s FoodShare benefits effective June 1, 2014.

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: Rhonda Kramer, Lead Economic Support Specialist
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Racine County.
2. On May 7, 2014, the Petitioner completed a renewal by phone. (Exhibit 7)

3. On May 20, 2014, the agency sent the Petitioner a notice advising her that effective June 1, 2014, her FoodShare benefits would be reduced from \$101 per month to \$15.00 per month. (Exhibit 4)
4. On May 23, 2014, the Petitioner contacted the agency to inquire about her Foodshare benefits and was told that she was no longer receives the \$450 Standard Heating Utility Allowance. However, the agency re-determined the Petitioner's FoodShare Benefits, allowing for a telephone and electricity deduction. (Exhibit 7)
5. On May 27, 2014, the agency sent the Petitioner a notice advising her that her food share benefits would go up to \$60 per month. (Exhibit 5)
6. On May 27, 2014, the agency sent the Petitioner a notice advising her that she would be receiving a \$45.00 FoodShare supplement. (Exhibit 6)
7. The Petitioner filed a request for Fair Hearing that was received by the Division of Hearings and Appeals on May 29, 2014. (Exhibit 1)
8. Petitioner's assistance group consists of one person, herself. (Testimony of Petitioner)
9. Petitioner is 63 years old. (Exhibit 7)
10. During the time in question the Petitioner paid \$268.00 for rent, although in July her rent will go up to \$271.00 per month. Testimony of Petitioner)
11. Petitioner receives Social Security Income Retirement income in the amount of \$590.00 per month. (Exhibit 2, pg. 59)
12. Petitioner receives State Supplemental Security Income that totals \$83.78 per month, which means that she must receive \$151.00 per month in Federal Supplemental Security Income. (Exhibit 2, pg. 58)

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. *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 \$152 per month, *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) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

Per Ops Memo 14-16, effective April 28, 2014, heating and utility allowances changed:

For individuals who have a verified heating expense, the heating standard utility allowance (HSUA) is \$450 per month. *Due to policy changes, the Petitioner no longer receives the HSUA, because heat is included in her rent.*

A Limited Utility Allowance (HUA) of \$313 is allowed for individuals who are obligated to pay two or more non-heating utility expenses such as phone, water, sewer, electricity, cooking fuel or trash. *Because the Petitioner does not have a heating expense, and pays for telephone and an electric bill, she may only receive the HUA deduction.*

An Electric Utility Allowance (EUA) of \$153 is permitted for individuals obligated to pay only a non-heat electric bill.

The Cooking Fuel Utility Allowance (FUA) of \$32 is permitted if obligated to pay for only fuel used for cooking that is not also used for heating.

The Water Utility Allowance (WUA) of \$80 is for individuals only obligated to pay for a water bill, a sewer bill, septic tank installation/maintenance or wastewater treatment bill.

The Phone Utility Allowance of (PUA) \$30 is for individuals only obligated to pay a telephone bill, including a cellular phone bill.

The Trash Utility Allowance (TUA) of \$18 is for those obligated to pay only a trash or garbage bill.

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, asserting that her FoodShare allotment is not sufficient because it does not take into account all of her expenses, nor does it allow her to purchase the food she needs for her special diabetic diet.

First, as discussed above, FoodShare allotments are based strictly upon income, only. Second, the only deductions from income that are allowed, are those described above. Finally, there are no deductions allowed for expenses related to special diets. This is specifically prohibited by *FSH §4.6.4.1*.

Applying the applicable deductions to Petitioner’s income we have the following net income calculation, effective June 1, 2014:

Gross Income	\$824.78	Rent	\$268.00
No Earned Income Deduction		LUA	\$313.00
Standard Deduction	-\$152.00	50% Net income	-\$336.39
No Medical Expenses exceeding \$35			
No Dependent Care Expense		Excess Shelter Expense	\$244.61
<hr/>			
Net Income Before Shelter Expense	\$672.78		
Excess Shelter Expense	- \$244.61		
<hr/>			
Net Income	\$428.17		

Individuals, in a household of one, with a net income of \$428.17 qualify for a FoodShare allotment of \$60.00 per month. *FSH §8.1.2*.

Petitioner should note that if she has a prescription for a dietary supplement or has other out of pocket medical expenses, that she should report these to the agency, because they could reduce her net income and therefore, increase her FoodShare allotment.

CONCLUSIONS OF LAW

The agency correctly determined the Petitioner’s FoodShare allotment effective June 1, 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 15th day of July, 2014.

\sMayumi M. Ishii
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 15, 2014.

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