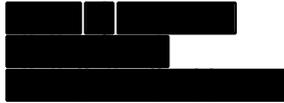




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158166

PRELIMINARY RECITALS

Pursuant to a petition filed June 04, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Barron County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on July 17, 2014, at Barron, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner's FoodShare allotment.

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: Candi Gillette

Barron County Department of Human Services
Courthouse Room 338
330 E Lasalle Ave
Barron, WI 54812

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) is a resident of Barron County.
2. The county agency determined that the petitioner is entitled to \$18 in FoodShare as of June 1, 2014.

3. The petitioner is under 60 and is not disabled.
4. The petitioner lives alone.
5. The petitioner earns \$1,385.95 per month.
6. The petitioner pays \$415 in rent each month.

DISCUSSION

FoodShare benefits depend upon a household's size and net income. Net income is determined after subtracting from gross income those deductions—and only those deductions—found in 7 CFR § 273.9(d). The petitioner believes that he should receive more FoodShare than the county agency awarded, primarily because he has a number of medical expenses.

The FoodShare program allows an excess medical expense deduction for unreimbursed monthly medical expenses that exceed \$35, but only to those who are at least 60 or have been found disabled under certain state or federal program. 7 CFR § 273.9(d)(3) referring to 7 CFR § 271.2; *FoodShare Wisconsin Handbook*, § 4.6.4.1. The petitioner does not meet either criteria.

The county agency allowed the petitioner the earned income deduction, the standard deduction, and the excess shelter deduction. The earned income deduction equals 20% of a recipient's earned income. 7 CFR § 273.9(d)(2). The petitioner does not challenge that he earns \$1,385.95 per month. Twenty percent of this is \$277.19, the amount the county agency allowed. The agency also correctly subtracted the \$152 standard deduction allowed for households with up to three members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1).

Determining the shelter deduction is less straightforward than determining the other deductions. It equals the amount that housing costs, including a standard utility allowance currently set at \$450, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. The maximum allowed for this deduction is \$478. *FoodShare Wisconsin Handbook*, § 8.1.3. Because there is a standard utility allowance, actual utility costs are not considered. Subtracting the petitioner's two other allowable deductions, the \$277.19 earned income deduction and the \$152 standard deduction, from his \$1,385.95 gross income leaves him with \$956.76. Half of this is \$478.38. He pays \$415 per month for rent. Adding the \$450 standard utility allowance this gives him \$865 in shelter costs. This exceeds half of the \$956.76 net income previously calculated by \$386.62. This is his shelter deduction. Subtracting all three deductions he is entitled to, the \$277.19 earned income deduction, the \$152 standard deduction, and the \$386.62 shelter deduction from his \$1,385.95 gross income leaves him with net income of \$570.14. According to the *FoodShare Wisconsin Handbook*, § 8.1.2., the FoodShare allotment for a one-person household, the size of the petitioner's, with this net income is \$17. The county agency determined that he was entitled to \$18 after using a formula required by 7 CFR § 273.10(e)(2)(ii)(A) rather than the table in the *FoodShare Wisconsin Handbook*. Because the agency's calculation is based upon the actual administrative code provision and gives a slightly higher benefit to the petitioner, I will uphold this determination. The petitioner is entitled to \$18 in FoodShare each month.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner is entitled to \$18 per month in FoodShare.

THEREFORE, it is

ORDERED

The petitioner's appeal is 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 21st day of July, 2014

\sMichael D. O'Brien
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 July 21, 2014.

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