



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/158244

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 09, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on July 03, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determined the Petitioner's FoodShare allotment.

There appeared at that time and place 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: Simone Johnson, Income Maintenance Specialist Advanced  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On February 17, 2014, the Petitioner completed a FoodShare review/renewal, during which he reported a rent expense of \$400 and a gas utility expense. (Exhibit 1, pg. 8)

3. On February 18, 2014, the agency sent the Petitioner a notice indicating that as of April 1, 2014, his FoodShare benefits would be decreased from \$189.00 per month to \$150.00 per month. (Exhibit 2, pg. 17)
4. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 9, 2014. (Exhibit 1)
5. Petitioner receives State Supplemental Security Income in the amount of \$83.78 per month and Federal Supplemental Security Income in the amount of \$721.00 per month for total monthly income of \$804.78. (Exhibit 2, pgs. 9-11)

### 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.*

The following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This was \$152 per month for assistance groups with 1-3 people, *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).*

The heating standard utility allowance (HSUA) was \$450 per month.

There was 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.*

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

Gross Unearned Income	\$804.78	Rent	\$400.00
No Earned Income Deduction		HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$326.39
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		<u>Excess Shelter Expense</u>	<u>\$523.61</u>
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Net Income before shelter ded.	\$652.78		
Excess Shelter Expense	- \$523.61		
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Net Income	\$129.17		

Individuals, in a household of one, with a net income of \$129.17 qualify for a FoodShare allotment of \$150.00 per month. *FSH* §8.1.2.

Thus, as of April 1, 2014, the agency correctly calculated the Petitioner’s FoodShare allotment.

The Petitioner argues that the \$150 allotment is not sufficient to meet his needs. As discussed previously, the FoodShare allotment is based strictly upon income and the only deductions from income that are allowed, are the ones listed above.

Petitioner should note that since he receives supplement security disability income, if he incurs any out of pocket medical expenses, he should report them to the agency, because depending upon the amount of the expense, it might increase the Petitioner’s FoodShare allotment.

**CONCLUSIONS OF LAW**

The agency correctly determined the Petitioner’s FoodShare allotment.

**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 30th day of July, 2014.

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\sMayumi M. Ishii  
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 30, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability