



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/158273

PRELIMINARY RECITALS

Pursuant to a petition filed June 13, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Columbia County Health & Human Services in regard to FoodShare benefits (FS), a hearing was held on July 16, 2014, at Portage, Wisconsin.

The issue for determination is whether the agency correctly reduced Petitioner's monthly FoodShare (FS) benefits.

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: Sandy Vandemark
Columbia County Health & Human Services
2652 Murphy Rd
PO Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County.
2. Petitioner receives FS as a household of one person. (Exhibit 3).
3. Effective July 1, 2014 Petitioner's monthly FS benefits were reduced to \$24.00. (Exhibit 3).

4. This monthly \$24.00 FS benefit is based on a utility expense of \$30.00. (Exhibit 3).
5. The petitioner's only utility expense is a phone. (Petitioner and Agency's testimony).
6. The petitioner does not have any additional utility expenses as other utilities are included in Petitioner's rent. (Petitioner and Agency's testimony).
7. Petitioner reported to the agency that her rent was \$400 per month. (Petitioner's testimony).

DISCUSSION

Petitioner received a deduction in her monthly FS benefit when her utility deduction was reduced from \$450.00 to \$30.00. Petitioner's only monthly utility cost is her phone. The monthly phone utility allowance is \$30.00. *FS Wisconsin Handbook*, 8.1.3. Petitioner does not have additional utility expenses. At the hearing Petitioner stated that she paid more than \$30 per month for her phone, however, in calculating a person's monthly FS benefits a maximum deduction of \$30 is allowed a phone expense. *Id.*

The standard utility deduction of \$450.00 was previously used to calculate Petitioner's FS benefit. 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. DCF OM 14-16. This allowed Wisconsin to grant all FS households the Heating Standard Utility Allowance (HSUA) of \$450. *Id.* The actual utility usage did not matter.

The 2014 Farm Bill changed this practice. The 2014 Farm Bill requires a household to have received a WHEAP or energy assistance payment of greater than \$20 to receive the HSUA of \$450. *Id.*, 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." *Id.* Petitioner did not receive WHEAP and her only monthly utility obligation is her phone. The phone allotment is \$30.00. *FS Wisconsin Handbook*, 8.1.3.

Using only the phone allowance of \$30.00 resulted in a decrease in Petitioner's monthly FS benefit. In calculating Petitioner's FS benefits, 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). 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). I have reviewed the agency's calculations in this case and find that these calculations are correct. (Exhibit 5).

I would note that at the hearing Petitioner stated that her rent is actually \$410 per month. Petitioner was to provide a copy of her rent receipt, which she has not provided. In reviewing the calculations at the hearing the agency noted that this additional \$10 in a shelter deduction would result in a nominal increase of Petitioner's monthly FS benefits. Petitioner stated that she told the agency her rent was \$400 because she more or less approximated her rent thinking that it did not matter. The agency must rely on information given to them by Petitioner. Relying on the information provided by Petitioner, the agency correctly determined her monthly FS benefits. I urge Petitioner to submit prove to the agency that she pays \$410 per month in rent. With that prove, the agency will be able to recalculate Petitioner's monthly FS benefits going forward.

CONCLUSIONS OF LAW

The agency correctly determined Petitioner's monthly FS benefits of \$24.

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 18th day of July, 2014

\sCorinne Balter
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 18, 2014.

Columbia County Health & Human Services
Division of Health Care Access and Accountability