



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
[Redacted]

DECISION

FOO/158526

PRELIMINARY RECITALS

Pursuant to a petition filed June 21, 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 10, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined Petitioner’s FoodShare (FS) 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: Belinda Bridges
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. Petitioner’s household size is one.
3. Petitioner’s only utility expense is a phone.

4. Effective July 1, 2014 the agency reduced Petitioner's FS benefits to \$15.00 monthly.
5. Prior to July 1, 2014 Petitioner was receiving \$97.00 in FS benefits.
6. This reduction was due to the agency crediting only a \$30.00 deduction for Petitioner's phone.
7. The agency was previously crediting the standard utility deduction of \$450.00, however, the passage of a new law no longer allowed the agency to use a standard \$450.00 utility deduction.

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.

The standard utility deduction of \$450.00 was previously used to calculate Petitioner's FS benefit. Using only the phone allowance of \$30.00 resulted in a decrease in Petitioner's monthly FS benefit. Were the standard \$450.00 utility deduction used to calculate Petitioner's monthly FS benefit, Petitioner would receive \$97.00 in monthly FS benefit. Correctly using only the \$30.00 phone allotment as the utility deduction, Petitioner's monthly FS benefit is \$15.00.

In calculating 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). 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 \$224.00 shelter cost plus the \$30 phone utility, Petitioner's shelter costs totaled \$254.00. This did not exceed half of the adjusted income (\$326.39), so there was no deduction for an excess shelter cost.

Thus, the July 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>-000.00</u> |
| Net Income | 652.78 |

The correct allotment for one person with net income of \$652.78 was \$15.00 in July 2014. *FS Wisconsin Handbook*, 8.1.2, p.6.

If the agency had used the standard utility deduction of \$450.00, then the June 2014 shelter deduction would have been as follows: \$224.00 shelter cost plus the 450.00 standard utility deduction, the petitioner's shelter costs totaled \$674.00. This exceeded half of the adjusted income (\$326.39), so the excess shelter cost of \$347.61 was deducted in the allotment calculation.

Thus, using the \$450.00 standard utility deduction the July 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>-347.61</u> |
| Net Income | 304.78 |

The allotment for one person with net income of \$304.78 was \$97 in July 2014. *FS Wisconsin Handbook*, 8.1.2, p.3.

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. Therefore, the agency correctly determined that the petitioner is to receive \$15.00 in monthly FS allotment based upon the above calculations.

I would note that at the hearing Petitioner stated that she has monthly medical expenses. Petitioner is in the category of elderly, blind, or disabled, and therefore is eligible to receive a deduction for excess medical costs. I urge Petitioner to submit prove of those costs to the agency, so that the agency can recalculate her August FS budgets and allotments. The sole issue for this hearing was whether the agency correctly calculated Petitioner’s FS benefits using the proper utility deduction. I conclude that the agency was correct in their calculations, however Petitioner should provide information regarding her medical bills to the agency for the agency to recalculate her FS benefits going forward.

CONCLUSIONS OF LAW

The agency correctly reduced Petitioner’s monthly FS benefits.

THEREFORE, it is **ORDERED**

That this 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 11th day of July, 2014

\sCorinne Balter
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 11, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability