



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of

[Redacted]  
[Redacted]  
[Redacted]

DECISION

FOO/158679

**PRELIMINARY RECITALS**

Pursuant to a petition filed June 30, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on July 16, 2014, by telephone.

The issue for determination is whether the Department correctly determined the amount of the petitioner's FS for July 2014.

There appeared at that time 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: Tom Miller, ES Supr.  
La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [Redacted]) is a resident of Vernon County.
2. The petitioner has an ongoing FS case as a household of one person. When her case opened, she had no income, and she was therefore awarded the maximum allotment for one person. In late

May 2014, the petitioner began receiving Unemployment Compensation (UC) of \$370 weekly, or \$1,591 monthly (\$370 x 4.3).

3. On June 16, 2014, the Department issued written notice to the petitioner advising that her FS would be reduced from \$189 to \$15 effective July 1, 2014. The basis for reduction was increased income. The petitioner timely appealed, and aid was continued pending appeal.
4. The petitioner has a shelter expense of \$843 (rent/insurance), with no utilities. She had not reported or verified utility expenses until the date of hearing. She does not pay out child support, and does not incur a dependent care expense to go to work.

**DISCUSSION**

The petitioner questions the correctness of the calculation of the FS allotment amount for July 2014, onward. The gross income was based on undisputed UC payments. There is no dispute as to the agency’s arithmetic in averaging those paystubs. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at [www.emhandbooks.wisconsin.gov/fsh/](http://www.emhandbooks.wisconsin.gov/fsh/). For earned income that is received biweekly, the agency is directed to develop a biweekly average, and then multiply that figure by 2.15 to account for three-paycheck months. For weekly income, the multiplier is 4.3. 7 C.F.R. §273.10(c)(2).

In calculating the petitioner’s July 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, rather than net, income, and allow only a limited number of identified deductions from that 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. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly not given here. A Dependent Care Deduction is also taken if the petitioner incurred day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person’s allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. There is no record of the latter three expenses here. 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 an \$843 shelter cost plus no utility costs, the petitioner’s shelter costs totaled \$843. This did exceed half of the adjusted income (\$719.50), so an excess shelter cost of \$123.50 was deducted in the allotment calculation.

Thus, the July 2014 allotment calculation correctly looked like this:

Gross income	1591.00
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	1439.00
Minus Shelter Deduction	<u>-123.50</u> (\$478 is the maximum)
Net Income	1315.50

The correct allotment for one person with net income of \$1,315.50 was \$15 in July 2014. *FS Wisconsin Handbook*, 8.1.2, p.12.

The petitioner submitted verification of utility expenses to the Department on July 16, 2014, which is too late to affect the determination of July 2014 benefits. If she disagrees with the Department's response to her submission as it affects future months, she is free to file a new hearing request.

**CONCLUSIONS OF LAW**

1. The Department correctly determined the petitioner's FS allotment for July 2014.

**THEREFORE, it is**

**ORDERED**

That the petition 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 27th day of August, 2014

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\sNancy J. Gagnon  
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 August 27, 2014.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability