



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158984

PRELIMINARY RECITALS

Pursuant to a petition filed July 11, 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 August 07, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly reduced Petitioner’s FoodShare benefits.

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: 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 # ) is a resident of Milwaukee County.
2. On June 6, 2014, the Petitioner completed a renewal and reported that she lives alone, receives \$787 in Social Security Disability Income and pays rent in the amount of \$234.00. No expense for a heating utility was reported. (Exhibit 5, pg. 8)

3. On June 09, 2014, the agency issued a notice to Petitioner advising her that effective July 1, 2014, her FoodShare benefits would be reduced from \$107.00 per month to \$67.00 per month.
4. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on July 11, 2014. (Exhibit 1)
5. Petitioner's household size is 1. (Testimony of Petitioner)
6. Petitioner pays rent in the amount of \$226.00 per month. (Testimony of Petitioner; Exhibit 4)
7. Heat is included in her rent. (Testimony of Petitioner)
8. Petitioner is responsible for paying a phone bill. (Testimony of Petitioner; Exhibit 2)
9. Petitioner is responsible for paying for electricity. (Testimony of Petitioner; Exhibit 5, pg. 8)
10. Petitioner receives \$787 per month in Social Security Disability Benefits. (Exhibit 5, pg. 21)

DISCUSSION

Petitioner filed an appeal to contest the reduction of her FoodShare benefits.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (FSH, at § 4.6):

- (1) a standard deduction –

This is \$152 per month, 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);

Petitioner does not have any earned income, so this would not apply to her.

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 CFR § 273.9(d)(3);

Petitioner did not report any out of pocket medical expenses.

- (4) dependent care deduction for child care expenses, 7 CFR § 273.9(d)(4); and

Petitioner did not report any child care expenses.

- (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).

There is a cap on this deduction of \$478 per month, unless the recipient is elderly, blind or disabled, meaning a food unit member age 60 or older or a person 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.

FSH, §§ 4.6.7.1 and 8.1.3.

It was the excess shelter/utility deduction that changed for Petitioner.

Previously, Federal Regulations allowed households who received at least \$1.00 in energy assistance to receive an income deduction for the Heating Standard Utility Allowance (HSUA). (Ops Memo 14-16;

Exhibit 5, pgs. 24-25) In 2009, the State of Wisconsin issued an annual energy assistance payment of \$1.00 to FoodShare households who did not already receive energy assistance. (Id.) This allowed all households to receive an income deduction for the HSUA, which is currently, \$450. (Id.)

The 2014 Farm Bill changed the Federal Regulations to require households to receive greater than \$20 in energy assistance, in order to receive the \$450 HSUA. (Ops Memo 14-16; Exhibit 5, pgs. 25-25) Consequently, Effective April 1, 2014, the State of Wisconsin ceased providing the \$1.00 energy assistance to households not who were not receiving energy assistance. (Id.)

In Petitioner’s case, she does not have an out-of-pocket heating expense and as such, would not necessarily receive energy assistance. However, Petitioner is obligated to pay for two non-heat qualifying utilities: phone and electricity. As such, she is entitled to a Limited Utility Allowance of \$313.

Applying the applicable deductions to Petitioner’s income we have the following net income calculation, we have the followig:

| | | | |
|------------------------------------|-----------------|-------------------------------|-----------------|
| Gross Income | \$787.00 | Rent | \$226.00 |
| No Earned Income Deduction | | HSU | \$313.00 |
| Standard Deduction | -\$152.00 | 50% Net income | -\$317.50 |
| No Medical Expenses exceeding \$35 | | | |
| No Dependent Care Expenses | | <u>Excess Shelter Expense</u> | <u>\$221.50</u> |
| <u>Net Income</u> | <u>\$635.00</u> | | |
| Excess Shelter Expense | - \$221.50 | | |
| <u>Net Income</u> | <u>\$413.50</u> | | |

Effective November 1, 2013, individuals, in a household of one, with a net income of \$413.50 qualify for a FoodShare allotment of \$64.00 per month. FSH §8.1.2

I note that this calculation yields a FoodShare allotment that is \$3.00 less than the agency’s calculations, because Petitioner’s rent is \$8.00 less than what she reported at the time of her renewal (\$226 vs. \$234). However, I will leave it to the agency’s discretion to decide how it wishes to address this situation.

CONCLUSIONS OF LAW

The agency correctly applied the Limited Utility Deduction and reduced 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 29th day of August, 2014.

\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 August 29, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability