



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/159029

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 12, 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 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined Petitioner's July 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: Pang Thao Xiang  
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 two.
3. Petitioner's gross household income is \$1,078.78, which consists of \$250.00 from a caretaker supplement benefit and \$828.78 in SSI payments.

4. Petitioner reported to the agency that her total shelter costs for July were \$300.00.
5. Effective July 1, 2014 Petitioner’s FS benefits were reduced from \$155.00 to \$68.00.
6. Petitioner did not report utility expenses to the agency until after her benefits were reduced.
7. On July 15, 2014 Petitioner filed a request for fair hearing with the Division of Hearings and Appeals.

**DISCUSSION**

In calculating the petitioner’s FS 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 household size of 2 is \$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 the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

Following these rules the petitioner’s FS benefits calculations effective July 1, 2014 were as follows. Petitioner’s gross income for July 2014 was \$1,078.78, which consisted of \$250.00 in caretaker supplement benefits and \$828.78 in SSI. From Petitioner’s gross income of \$1,078.78 the agency subtracted the standard deduction of \$151 giving Petitioner an adjusted income of \$926.78. Petitioner did receive an excess shelter deduction as her shelter expenses of \$300 in rent and no utilities were less than half of her adjusted income making her ineligible for an excess shelter deduction.

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

Gross income	1078.78
Minus Earned Inc. Deduction	-000.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	-152.00
Adjusted Income	926.78
Minus Shelter Deduction	<u>-000.00</u>
Net Income	926.78

The correct allotment for a household of two with net income of \$926.78 was \$68.00 in July 2014. *FS Wisconsin Handbook*, 8.1.2, p.4.

In this case the issue lies in the reduction. Petitioner’s argument is that her expenses and income did not change, but her FS benefits were drastically decreased in July 2014. The reason for this decrease is the 2014 farm bill. 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. This allowed Wisconsin to grant all FS households the Heating Standard Utility Allowance (HSUA) of \$450. The actual utility usage did not matter.

The HSUA deduction affects the excess shelter deduction. In this case were Petitioner still receiving that \$450 HSUA, Petitioner’s rent of \$300 would be added to the \$450 HSUA, which would total \$750 in shelter costs. From the \$750 shelter costs, the agency would subtract half of her adjusted income, her adjusted income is \$926.78, half of that is \$463.39, which would total \$266.61 as the shelter deduction.

(\$750 – \$463.39 = \$266.61). The agency would then subtract the shelter deduction of \$266.61 from the adjusted income of \$926.78 making Petitioner’s net income \$640.17. The monthly FS benefits for a family of two with a net income of \$640.17 is \$155.00.

The 2014 Farm Bill changed Wisconsin’s practice of allowing all FS households to take the maximum utility allowance. The 2014 Farm Bill requires a household to have a received a WHEAP or energy assistance payment of greater than \$20 to receive the HSUA of \$450. 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.” *DHS Operations Memo 14-16 Amended*.

In this case Petitioner did not receive WHEAP and did not report any monthly utility obligations. Petitioner testified that she completed an online verification for her FS benefits shortly before her monthly FS benefits were reduced. The verification asked her if there were any changes. She did not report any changes. The verification also asked her about her utility obligations, and she did not report any utility obligations. Petitioner only reported shelter expenses of \$300 for rent paid to her mother. The agency must rely on the information provided by Petitioner. Relying on that information and given the change with the 2014 Farm Bill, the agency correctly calculated Petitioner’s July FS benefits.

At the hearing Petitioner presented a receipt showing she paid \$650 in monthly rent to her mother. She reported that this additional \$350 was for utility usage and property taxes. Petitioner admitted that this information is different than the information she provided during the verification process. The agency must rely on the information provided by Petitioner prior to the fair hearing. Petitioner can report these changes to the agency who can re-determine her monthly FS benefits going forward.

### **CONCLUSIONS OF LAW**

The agency correctly calculated Petitioner’s FS benefits for July 2014 based on Petitioner’s report of her monthly shelter costs and the change in the standard utility allowance caused by 2014 Farm Bill.

**THEREFORE, it is**

**ORDERED**

That the petitioner 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).

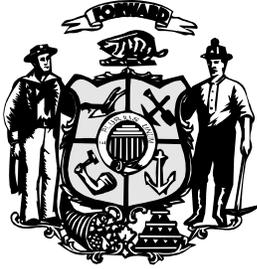
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson 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 13th day of August, 2014

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\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 August 13, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability