



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/159084

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 17, 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 telephonic hearing was held on September 10, 2014.

The issue for determination is whether the agency correctly implemented a reduction in Petitioner's monthly FS benefits when her income increased and her household size decreased.

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-Xiong  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Effective June 1, 2014 Petitioner's monthly FS benefits were reduced from \$750 to \$521. This reduction occurred because Petitioner's unearned income increased when she began receiving an additional \$653 per month in W2 benefits.

3. Effective July 1, 2014 Petitioner's monthly FS benefits were reduced from \$521 to \$319. This reduction occurred because Petitioner's household size decreased from five to three.
4. Effective August 1, 2014 Petitioner's monthly FS benefits were reduced from \$319 to \$177. This reduction occurred because Petitioner's unearned income increased when she began receiving federal and state SSI.
5. On July 17, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.

### 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 (FSWH)*. 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 5 is \$191.00, and for a household size of 3 is \$152, per *FSWH*, §8.1.3. There are additional deductions for earned income, 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 the allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I have reviewed the agency's calculations in this case. In May, Petitioner received \$750 in monthly FS benefits. This is the maximum amount monthly FS benefits for a household size of 5. Petitioner's gross income was \$907.12. Effective June 1, 2014 Petitioner's monthly gross income increased to \$1,532.09. This increase in income reduced her monthly FS benefits to \$521.00. Effective July 1, 2014 Petitioner's monthly gross income decreased to \$951.02, however, her household size also decreased from five to three. In addition, her utility standard was decreased from \$450 to \$313. These changes reduced her monthly FS benefits to \$319. Effective August 1, 2014 Petitioner's monthly gross income increased from \$951.02 to \$1,604.02. This increase in income reduced Petitioner's monthly FS benefits to \$177.

Effective July 1, 2014 Petitioner no longer received the \$450 utility standard. Previously all households receiving FS benefits qualified for the \$450 heating standard utility allowance. *DHS Operations Memo 14-16 Amended* (viewed online at <http://www.dhs.wisconsin.gov/EM/ops-memos/2014/PDF/14-16amended2.pdf>). DOA gave everyone receiving FS benefits \$1 in WHEAP (energy) assistance. *Id.* This qualified all households for the \$450 standard utility allowance regardless of the households' actual utility obligation. *Id.* The 2014 Farm Bill no longer allows a person receiving \$1 in WHEAP assistance the \$450 standard utility allowance. *Id.* To qualify for the \$450 utility standard, the person must receive \$20 or more in WHEAP assistance or pay for heat. *Id.* A person is eligible for the \$313 limited utility allowance if the person is responsible for two non-heat utilities. *Id.* In this case Petitioner does not pay for heat, but pays for two other utilities, and therefore qualifies for the \$313 limited utility allowance.

Petitioner does not dispute the changes in her income or the change in her household size. She also does not dispute the agency's report of her utility obligations. Petitioner stated that some of these changes were reported to the agency earlier, and thus some of the reductions should have been implemented sooner. This agency mistake actually benefited Petitioner. The agency mistake does not mean that Petitioner is entitled to additional benefits going forward.

Ultimately, Petitioner did not understand how her monthly FS benefits reduced from \$750 in May to \$177 in August. The decrease in household size, decrease in utility deduction, and increase in income caused that change. There is a specific formula and calculation that the agency uses. I have reviewed all of the agency calculations, and have determined that the agency correctly calculated Petitioner's monthly FS benefits in May, June, July, and August 2014. See Exhibit 8.

**CONCLUSIONS OF LAW**

The agency correctly determined Petitioner's monthly FS benefits in May, June, July, and August 2014.

**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 15th day of September, 2014

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\sKelly Cochrane  
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 September 15, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability