



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/159091

PRELIMINARY RECITALS

Pursuant to a petition filed July 15, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on August 07, 2014, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly calculated Petitioner's June, July, and August 2014 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: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. Petitioner's household size is one.
3. Petitioner's gross household income is \$1093.00 from social security.

4. Petitioner reported to the agency that her total shelter costs for June 2014 were \$400.
5. Effective June 1, 2014 Petitioner’s monthly FS benefits were \$15.
6. In June, Petitioner reported that her rent had increased from \$400 to \$450.
7. Effective July 1, 2014 Petitioner’s monthly FS benefits increased to \$45.
8. In July, Petitioner reported that her rent had increased from \$450 to \$600 and that is responsible for all of the utilities.
9. Effective July 1, 2014 Petitioner’s FS benefits increased from \$45 to \$80.
10. Petitioner pays her rent and utilities to her parents.

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 June 1, 2014 were as follows. Petitioner’s gross income for July 2014 was \$1,093 from social security. From Petitioner’s gross income of \$1093 the agency subtracted the standard deduction of \$152 giving Petitioner an adjusted income of \$942. Petitioner also received an excess shelter deduction as her shelter expenses of \$400 in rent and the \$450 standard utility credit exceeded more than half of her adjusted income of \$941. The calculation for the excess shelter deduction was as follows: (\$400 + \$450 = \$850.) Half of her adjusted gross income of \$941 is \$470.50. Then \$850 – \$470.50 is \$379.50.

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

Gross income	1093.00
Minus Earned Inc. Deduction	-000.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	-152.00
Adjusted Income	941.00
Minus Shelter Deduction	<u>-379.50</u>
Net Income	561.50

The correct allotment for a household of one with net income of \$561.50 was \$20.00 in June 2014. *FS Wisconsin Handbook*, 8.1.2, p.5.

Petitioner reported a rent increase from \$400 to \$450 in July. This caused an increase in monthly FS benefits effective July 1, 2014. Thus, the July 2014 excess shelter deduction was calculated as follows: rent (\$450) plus standard utility deduction (\$450) is \$900 in shelter costs. Shelter costs (\$900) minus half of her adjusted income (\$470.50) is \$429.50. Thus the July 2014 allotment calculation correctly looked like this:

Gross income	1093.00
Minus Earned Inc. Deduction	-000.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	-152.00
Adjusted Income	941.00
Minus Shelter Deduction	<u>-429.50</u>
Net Income	511.50

The correct allotment for a household of one with net income of \$511.50 was \$35.00 in June 2014. *FS Wisconsin Handbook*, 8.1.2, p.5.

Petitioner again reported a rent increase in July, which caused an increase in her monthly FS benefits effective August 1, 2014. Petitioner reported that her rent increased from \$450 to \$600. She further reported that she pays for gas, electric, and water, which entitled her to the full \$450 standard utility deduction. Thus her excess shelter deduction effective August 1, 2014 was as follows: rent (\$600) plus utilities (\$450) created a total shelter costs of \$1050. Half of her adjusted income was subtracted from the shelter costs creating an excess shelter deduction of \$579.50. Thus the August 2014 allotment calculation correctly looked like this:

Gross income	1093.00
Minus Earned Inc. Deduction	-000.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	-152.00
Adjusted Income	941.00
Minus Shelter Deduction	<u>-579.50</u>
Net Income	361.50

The correct allotment for a household of one with net income of \$361.50 was \$80.00 in August 2014. *FS Wisconsin Handbook*, 8.1.2, p.5.

In this case Petitioner received two increases in her monthly FS benefits when she reported that her rent increased. Petitioner pays her rent to her parents. Despite her increase in rent, she has had no increase in income, nor has she moved. Nonetheless, the agency increased Petitioner’s monthly FS benefits each time she reported an increase in that 20 day period.

Petitioner does not feel that she is getting the correct amount from the agency. She does not believe that the agency takes action on the changes that she reports. I find that the agency took action on Petitioner’s reported changes, which take effect the month following her reports. The agency did not question Petitioner’s credibility regarding these changes nor do a further investigation into whether she was actually paying her parents the amount of rent that she reported to the agency. I further find that the agency correctly calculated Petitioner’s June, July, and August 2014 monthly FS benefits for the reasons and calculations discussed above.

CONCLUSIONS OF LAW

The agency correctly calculated Petitioner’s June, July, and August 2014 monthly FS benefits.

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

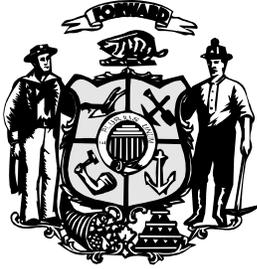
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

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 13th day of August, 2014

\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.

Kenosha County Human Service Department
Division of Health Care Access and Accountability