



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/159341

**PRELIMINARY RECITALS**

Pursuant to a petition filed July 28, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on September 3, 2014, by telephone. A hearing set for August 19, 2014 was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly determined petitioner's FS allotment after an increase in income.

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Jose Silvestre  
Milwaukee Enrollment Services  
1220 W. Vliet St.  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner receives FS in a two-person household with her daughter. In July, 2014 she received \$236 in FS.
3. Petitioner had a review in July. Using the last two pay stubs, the agency determined that monthly income was \$2,051.34 (bi-weekly gross income times 2.15).

4. When the increased income was entered the agency determined that FS would be reduced to \$15 effective August 1, 2014. Petitioner was notified of the change by a notice dated July 7, 2014. Benefits were continued pending this decision.

### DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$152 per month. 7 C.F.R. §273.9(d)(1); FS Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FS Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FS Handbook, App. 4.6.4. I note that petitioner has not been found to be disabled and thus would not qualify for this deduction. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FS Handbook, App. 4.6.7.

FS allotments are based upon a household's prospective income, meaning that the agency must estimate the household's income for the month in which FS are to be received. FS Handbook, Appendix 4.1.1. Income from the past 30 days typically is used to make the estimate, but if income fluctuates, the worker must determine a monthly average using prior months' income. 7 C.F.R. §273.10(c)(1) and (2); Handbook, App. 1.2.4.2.

With the increased income, petitioner's net income after the allowable deductions was \$1,137.93. A two-person household with that income is entitled to \$15 in FS. Handbook, App. 8.1.2. It is possible that petitioner might be eligible for more FS in future months. First, if her income decreases she can request the agency to review eligibility by reporting the decreased income. Also petitioner stated that her rent will increase in October; if she reports and verifies the increased rent FS might increase. However, net income would have to drop by several hundred dollars for petitioner to get as much as in the past (for example, to receive \$236 in FS net income would have to be between \$366 and \$370).

### CONCLUSIONS OF LAW

The agency correctly determined petitioner's FS amount after she reported increased income at her review.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 8th day of September, 2014

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\sBrian C. Schneider  
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 8, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability