



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/159544

PRELIMINARY RECITALS

Pursuant to a petition filed August 04, 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 26, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly reduced the Petitioner’s FoodShare benefits effective August 1, 2014.

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 30, 2014, the Petitioner completed an ACCESS application for healthcare. This triggered a redetermination of Petitioner’s FoodShare benefits, based upon Petitioner’s reported income. (Testimony of Ms. Johnson; Exhibit 2, pgs. 8 and 22)

3. On June 30, 2014, the Petitioner provided the agency with two bi-weekly paystubs, one dated June 20, 2014, showing gross income of \$727.00 and one dated June 6, 2014, showing gross income of \$890.25. (Exhibit 2, pgs. 39 and 40)
4. Based upon those paystubs, Petitioner's monthly income works out to be as follows:
 - \$727 + \$890 ÷ 2 = \$808.50 average income per pay period
 - \$808.50 x 2.15 average pay periods per month = \$1738.27 average monthly income.

It should be noted that the agency's calculation of Petitioner's income, did not take into account the overtime that he worked during both pay periods.

(See Exhibit 2, pgs. 1, 39 and 40)
5. On July 16, 2014, the agency sent the Petitioner a notice indicating that effective August 1, 2014, his FoodShare benefits would be decreased from \$189.00 to \$15.00 per month, because his household income increased. (Exhibit 2, pgs. 9-15)
6. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on August 4, 2014. (Exhibit 1)
7. Petitioner lives in a household of one and pays rent in the amount of \$352.00 per month. (Testimony of Petitioner)
8. Petitioner apartment is in a low income housing complex. (Exhibit 2, pg. 8 – Case Comments)

DISCUSSION

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has a member over age 60. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

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)*;

For Petitioner this works out to be a deduction of \$347.66

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (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).*

The heating standard utility allowance (HSUA) is \$450 per month, until a household completes a renewal. At that time, only households with out of pocket

heating expenses will receive the \$450 allowance, **unless the residence is in low income housing.**

There is a cap of \$478.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member 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.

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

Gross Income	\$1738.37	Rent	\$352.00
Earned Income Deduction	-\$347.66	HSU	\$450.00
Standard Deduction	-\$152.00	50% Net income	-\$619.36
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		<hr/>	Excess Shelter Expense \$182.64
<hr/>			
Net Income	\$1238.71		
Excess Shelter Expense	- \$182.64		
<hr/>			
Net Income	\$1056.07		

Individuals, in a household of one, with a net income of 1056.07 qualify for a FoodShare allotment of \$15.00 per month. *FSH §8.1.2.*

At the hearing, the Petitioner indicated that the number of hours that he is working has been decreased. This is change that needs to be reported to the agency and verified, before an adjustment can be made to his FoodShare benefits.

Petitioner should note that there is a list of food pantries that can be found at http://www.needhelp-paying-bills.com/html/milwaukee_food_pantries.html and at <http://www.foodpantries.org/ci/wi-milwaukee>. In addition, Petitioner might receive additional information from Hunger Task Force: (414) 777-0483 or Feeding America (Formerly Second Harvest): (414) 931-7400.

CONCLUSIONS OF LAW

The agency correctly reduced Petitioner’s FoodShare benefits, effective August 1, 2014.

THEREFORE, it is ORDERED

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

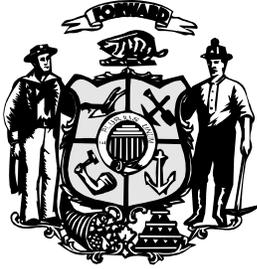
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

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 18th day of September, 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 September 18, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability