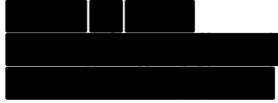




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/159571

PRELIMINARY RECITALS

Pursuant to a petition filed August 01, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Langlade County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on August 25, 2014, at Antigo, Wisconsin.

The issue for determination is whether the agency erred in its denial of petitioner's Foodshare application.

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: Kathy Hamilton

Langlade County Department of Social Services
1225 Langlade Road
Antigo, WI 54409-2795

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Langlade County.
2. Petitioner applied for Foodshare as a case head of a 3-person household.
3. Household unearned income was budgeted as \$1,780 of unearned income.
4. The agency budgeted the standard \$152 deduction.

5. Adjusted net income was determined to be \$1,628.
6. The agency budgeted \$351.60 of shelter costs and a \$450 utility standard which was less than the adjusted income.
7. On July 25, 2014 the agency issued a notice indicating that the petitioner was ineligible for FS.
8. Petitioner appealed.

### **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 was, at the relevant time of the agency action, \$142 per month for a three person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin 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); FoodShare Wisconsin 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); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin 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); FoodShare Wisconsin Handbook, App. 4.6.7.

I find no errors in the agency's calculation of the net income at \$1,628. A look at the FS Handbook allotment table § 8.1.2 reveals a designated allotment for a 3-person group with this income level at an \$8 FS allotment. Per the program rules, such an allotment is not issued:

#### **7.1.1.1 Initial Allotment**

An initial FS allotment is pro-rated from the application filing date, unless the pro-rated initial allotment amount is less than \$10. Initial allotments of less than \$10 are not issued. There is an exception for food units that include a [migrant](#) or seasonal farmworker and have continuing FS eligibility ([7.1.1.2](#)).

Since this was an initial application, no initial allotment would be issued less than \$10 and the case was denied.

### **CONCLUSIONS OF LAW**

The agency did not err in denying the application because the household net income resulted in an allotment under \$8 which does not result in initial eligibility.

**THEREFORE, it is**

**ORDERED**

That this matter is 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 16th day of September, 2014

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\sJohn P. Tedesco  
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 16, 2014.

Langlade County Department of Social Services  
Division of Health Care Access and Accountability