



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/159738

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 06, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to FoodShare benefits (FS), a telephonic hearing was held on September 4, 2014. At that hearing, petitioner more clearly identified the action she was appealing, which was not what the agency had prepared to explain. Therefore the hearing was continued to another day, and on October 16, 2014, a telephonic hearing was held.

The issue for determination is whether the agency correctly determined petitioner's FS for May and June 2014.

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: Kathy Jones

Waukesha County Health and Human Services  
514 Riverview Avenue  
Waukesha, WI 53188

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. In May 2014 petitioner's countable monthly gross income was \$733.80. She received \$450 as a utility standard and her shelter costs were \$151. She received \$107 in FS for May.
3. On May 23, 2014 petitioner completed her annual review for FS.
4. In June 2014 petitioner's countable monthly gross income was 733.80. She received \$313 as a utility standard and her shelter costs were \$179. She received \$74 in FS for June.

## DISCUSSION

FS benefits are calculated pursuant to 7 C.F.R. §273.9. The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.2. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>.

In calculating the petitioner's allotment, the agency must follow the procedure set by the federal FS regulations, which is restated in the *FS Handbook*. In determining the amount of FS to be issued each month, the county must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. § 273.9(b). From the gross household income, the following permissible deductions as discussed in the *FoodShare Handbook*, §4.6.1 are allowed: a standard deduction, an earned income deduction, a medical expenses deduction, a child support payment deduction, a dependent care expense deduction, and a shelter expense deduction. Some FS groups are not allowed a deduction for some expenses and some expenses are not always deducted in full.

Petitioner did not understand how the agency determined her FS for the months in question. The agency provided the FS budget screens for April-October to show how it budgeted her FS each month. The petitioner did not argue that the calculations were wrong, and I cannot find any errors in the computations.

As the agency explained at hearing, the reason petitioner's FS decreased in June was due to a mass change in policy that affected the shelter deduction. The policy in question relates to Operations Memo #14-16, available online at <http://www.dhs.wisconsin.gov/em/ops-memos/2014/PDF/14-16amended2.pdf>. I add for petitioner's information that this Operations Memo took effect due to federal changes made in The Agricultural Act of 2014 (P.L. 113-79). Petitioner can check this information at [http://www.fns.usda.gov/sites/default/files/LIHEAP\\_Implementation\\_Memo.pdf](http://www.fns.usda.gov/sites/default/files/LIHEAP_Implementation_Memo.pdf). As noted in the policy, this change was to take place for all FS applications with a filing date on or after April 28, 2014 and FS renewals processed on or after April 28, 2014 for a recertification period starting June 1, 2014, as it did here when she completed her renewal at the end of May. As explained in the policy, petitioner is to receive the LUA (Limited Utility Allowance) of \$313 if she is obligated to pay, or actually paying for two or more of any non-heat qualifying utility expenses: phone, water, sewer, electric, cooking fuel, or trash. That is what was budgeted for her. As she had previously received a higher deduction, her FS was higher in the previous months.

Another issue that caused petitioner confusion about her FS amounts was due to the fact that her Social Security income was autopopulating the agency's system, thereby causing various notices to be issued to the petitioner. This kind of system generated "problem" is not one I have jurisdiction to consider, and petitioner is reminded to review her notices to ensure that the agency is budgeting her income correctly. In the end, however, the agency has now explained through its budgets that it was using the correct income to determine her FS benefits.

I also add for petitioner's information that October FS increased due in part to a mass Cost Of Living Adjustment (COLA) to the LUA. As of October 1, 2014 the LUA was raised to \$321. See Ops Memo DHS 14-37 Amended, available online at <http://www.dhs.wisconsin.gov/em/ops-memos/2014/PDF/14-37amended.pdf>. Thus, she received a greater deduction for that expense, and her FS increased accordingly. I remind the petitioner that if her income decreases, expenses increase, or has other changes to her household she must report and verify that to the agency so her FS can be redetermined.

In the end, the agency has demonstrated that she has received all of the FS for which she is eligible for the months in question.

### **CONCLUSIONS OF LAW**

The agency correctly determined petitioner's FS for May and June 2014.

**THEREFORE, it is**

**ORDERED**

The petition for review herein 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 27th day of October, 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 October 27, 2014.

Waukesha County Health and Human Services  
Division of Health Care Access and Accountability