



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/159922

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 16, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Shawano County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on September 10, 2014, by telephone.

The issue for determination is whether the county agency correctly reduced the petitioner's FS effective September 1, 2014.

There appeared at that time 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: Deb Marohl, ES Lead Worker  
Shawano County Department of Social Services  
607 E. Elizabeth Street  
Shawano, WI 54166-3105

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Shawano County.
2. The petitioner has an ongoing FS case as a household of one person. He completed a periodic FS review in July 2014. At that time, he reported a rent expense of \$600 (a motel) and no utility costs.

3. On July 22, 2014, the Department issued written notice to the petitioner advising that his FS would be reduced down to \$15 effective September 1, 2014. The basis for the reduction was that the petitioner no longer was receiving a utility expense deduction (previously, \$450). *See*, Exhibit 2.
4. The petitioner’s only income is \$972 from Social Security. His rent is \$600, and he pays no utilities. Prior to the hearing date, he had not reported excess medical expenses to the agency.

**DISCUSSION**

The petitioner questions the correctness of the calculation of the FS allotment amount for September 2014, onward. The gross income was based on verified Social Security Disability benefits. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at [www.emhandbooks.wisconsin.gov/fsh/](http://www.emhandbooks.wisconsin.gov/fsh/).

In calculating the petitioner’s September 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, rather than net, income, and allow only a limited number of identified deductions from that 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 case with one to three persons is currently set at \$152, per *FS Wisconsin Handbook*, 8.1.3. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly not given here. A Dependent Care Deduction is also taken if the petitioner incurred day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person’s allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. *At the time of hearing*, there is no record of the latter three expenses here. 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 that income. 7 C.F.R. §273.9(d)(6)(ii). Based on a \$600 shelter cost plus no heating utility standard, the petitioner’s shelter costs totaled \$600. This did exceed half of the adjusted income (\$410), so a excess shelter cost of \$210 was deducted in the allotment calculation.

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

Gross income	972.00
Minus Earned Inc. Deduction	- 000.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-152.00</u>
Adjusted Income	820.00
Minus Shelter Deduction	<u>-210.00</u>
Net Income	610.00

The correct allotment for one person with net income of \$610 was \$15 in September 2014. *FS Wisconsin Handbook*, 8.1.2, p.6.

At hearing, it was suggested that the petitioner submit verification of his unpaid medical bills to the agency, so that an excess medical expense deduction might be taken in the future.

**CONCLUSIONS OF LAW**

1. The Department correctly determined the petitioner’s FS allotment for September 2014.

**THEREFORE, it is**

**ORDERED**

That the petition 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 12th day of September, 2014

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\sNancy J. Gagnon  
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 12, 2014.

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