



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/160009

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 20, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 23, 2014, at Appleton, Wisconsin.

The issue for determination is whether the Department correctly determined the amount of the petitioner's FS for September 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: Katie Woods, ES Spec.

Outagamie County Department of Human Services  
401 S. Elm Street  
Appleton, WI 54911-5985

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. The petitioner has an ongoing FS case as a household of one person. She has undisputed gross monthly income of \$871.43, all of it unearned. The petitioner supplied the Department with verification of an ongoing monthly medical expense of \$9.80. She separately supplied the

Department with one-time medical bills totaling \$354.09. The agency used those bills to create a larger, one-time excess medical expense deduction for August 2014.

3. On August 19, 2014, the Department issued written notice to the petitioner advising that her FS would be \$58 effective September 1, 2014. The petitioner timely appealed, and aid was continued at the prior level pending appeal.
4. The petitioner has a shelter expense of \$195, plus utilities. She does not pay out child support, and does not incur a dependent care expense to go to work.

**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 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. There is no record of the latter three expenses here (the \$9.80 monthly prescription costs does not exceed the \$35 monthly threshold). 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 \$195.00 shelter cost plus the \$450 heating utility standard, the petitioner’s shelter costs totaled \$645.00. This did exceed half of the adjusted income (\$359.71), so an excess shelter cost of \$285.29 was deducted in the allotment calculation.

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

Gross income	871.43
Minus Earned Inc. Deduction	-000.00
Minus <i>Excess</i> Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-152.00</u>
Adjusted Income	719.43
Minus Shelter Deduction	<u>-285.29</u>
Net Income	434.14

The correct allotment for one person with net income of \$434.14 was \$58 in September 2014. *FS Wisconsin Handbook*, 8.1.2, p.4.

**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 26th day of September, 2014

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Nancy J. Gagnon  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 26, 2014.

Outagamie County Department of Human Services  
Division of Health Care Access and Accountability