



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/160021

PRELIMINARY RECITALS

Pursuant to a petition filed August 19, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Adams County Health and Human Services in regard to FoodShare benefits (FS), a hearing was held on October 7, 2014, by telephone. A hearing set for September 9, 2014, was rescheduled at the petitioner's request.

The issue for determination is whether the 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: Amber Taylor, ES Spec.
Adams County Health and Human Services
108 E North Street
Friendship, WI 53934-9443

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Adams County.

2. The petitioner has an ongoing FS case as a household of one person. The agency learned of updated unearned income – Social Security benefits – on August 11, 2014. Previously, she had no income. The agency verified the gross Social Security Retirement monthly income of \$1,377.00.
3. On August 11, 2014, the Department issued written notice to the petitioner advising that her FS would be reduced from \$189 to \$15 effective September 1, 2014. The basis for reduction was increased income. Exhibit 4. The petitioner timely appealed, and aid was ordered continued pending appeal.
4. At the time of hearing, the petitioner had not verified a shelter expense. She does pay for 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 Retirement 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/.

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. 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 zero verified shelter cost plus the \$450 heating utility standard, the petitioner’s shelter costs totaled \$450. This did not exceed half of the adjusted income (\$612.50), so no excess shelter cost was deducted in the allotment calculation.

The petitioner argued that she does pay a shelter expense, in the form of a \$582 monthly mortgage. She further argued that she submitted verification of that expense to the Department on two, unknown dates. The Department has no record of receipt of her shelter verification. This hearing record was held open for seven days to allow the petitioner to submit her shelter expense verification direction to this Judge; nothing was received. Therefore, I conclude that the petitioner has not verified her shelter expense, and the agency was correct to not subtract the mortgage expense in the calculation. If she submits this verification in the future, it can be considered in future months.

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

Gross income	1377.00
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	1225.00

Minus Shelter Deduction	<u>- 000.00</u>
Net Income	1225.00

The correct allotment for one person with net income of \$1,225 was \$15 in September 2014. *FS Wisconsin Handbook*, 8.1.2, p.11.

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 17th day of November, 2014

\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 November 17, 2014.

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