



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/160064

PRELIMINARY RECITALS

Pursuant to a petition filed August 21, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Douglas County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 23, 2014, at Superior, Wisconsin.

The issue for determination is whether the county agency correctly reduced the petitioner’s FoodShare allotment after determining that she was not entitled to credit for heating costs included in her rent.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Tom Ostrander

Douglas County Department of Human Services
1316 North 14Th Street
Suite 400
Superior, WI 54880

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Douglas County. She lives alone.
2. The petitioner receives \$824.78 in unearned income each month.

3. The petitioner pays \$375 in rent each month. Her rent includes all of her utilities except her telephone.
4. The petitioner has not received Energy Assistance in the last year.
5. The county agency reduced the petitioner's FoodShare allotment from \$126 to \$15 per month. Her allotment increased to \$16 in October 2014.

DISCUSSION

The size of a FoodShare allotment depends upon household size and net income. Net income is determined after subtracting from gross income those deductions—and only those deductions—found in 7 CFR § 273.9(d). The county agency reduced the petitioner's FoodShare allotment from \$126 to \$15 per month, mainly because recipients no longer receive a utility allowance if their utilities are included in their rent. *The Agriculture Act of 2014*, Title IV, § 4006; 7 C.F.R. § 273.9(d)(6)(ii); 7 CFR § 273.9(d)(3) referring to 7 CFR § 271.2. His allotment increased to \$16 per month in October 2014.

The petitioner's gross income consists state and federal disability payments totaling \$824.78 per month. She is entitled to the \$152 standard deduction allowed for households with up to three members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). She is not entitled to an earned income deduction because disability payments are not considered to be earned income. *See* 7 CFR § 273.9(d)(2). The only other deduction she is potentially entitled to is the shelter deduction, which equals the amount that housing costs exceed 50% of the net income remaining after all other deductions are subtracted from gross income. Those who pay their own heat get a \$450 standard utility allowance as part of their shelter deduction. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. Wisconsin had been granting the utility allowance to those whose utilities were included in their rent by granting them \$1 annual energy assistance payment, but the current farm bill requires households whose heating costs are included in their rent to receive at least \$20 a year in heating assistance to qualify for utility allowance. Most states that had provided \$1 a month in energy assistance raised this amount \$20, but Wisconsin did not. There is a \$30 telephone allowance for those who do not pay for their own heat but have a telephone bill. *Id.* This and her \$375 rent bring her shelter costs to \$405 per month. Deducting the \$152 standard allowance from her \$824.78 gross income, leaves her with \$672.78. Half of this is \$336.39. Her shelter deduction is the difference between this and \$405, or \$68.61. Subtracting this and the \$152 standard deduction from her \$824.78 gross income leaves net income of \$604.17. The FoodShare allotment for a one-person household, the size of the petitioner's, with this income was \$15 until October 1, 2014, and \$16 after this. *FoodShare Wisconsin Handbook*, § 8.1.2. Because this is what the agency determined, I must uphold its decision

CONCLUSIONS OF LAW

1. The petitioner is not entitled to the Heat Utility Standard Allowance because her heat and electricity are included in her rent.
2. The county agency correctly determined the petitioner's FoodShare allotment.

THEREFORE, it is

ORDERED

The petitioner's appeal 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 27th day of October, 2014

\sMichael D. O'Brien
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.

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