



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/160099

PRELIMINARY RECITALS

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

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare allotment.

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: Nancy Randall

Polk County Department of Social Services
100 Polk County Plaza, Suite 50
Balsam Lake, WI 54810

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Polk County. There is one other person in his household.
2. The county agency seeks to reduce the petitioner's FoodShare allotment from \$260 to \$55 per month as of September 1, 2014.

3. The petitioner's wife works 15 hours a week and earns \$7.40 per hour, or \$477.30 per month. The petitioner receives \$747 per month in SSDI payments.
4. The petitioner's rent is \$332 per month.

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 seeks to reduce the petitioner's FoodShare allotment from \$260 to \$55 per month, mainly because he has used up his medical deductions and because federal no longer provides a utility allowance to those whose 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.

I note initially that this matter would be easier to determine if the agency worker had included the most basic document in this or any other care, the notice of decision. That notice includes gross income as well all deductions and calculations in one place. Without it, I must piece together this information from various sources. This would less difficult if the worker's summary included the recipient's gross income and various deduction along with the calculations, but it does not. Instead, the only monetary figures mentioned in the summary were for medical expenses that are used up and no longer allowed. While these figures provide some historical perspective, they provide no help in determining whether the agency correctly determined the petitioner's current FoodShare allotment, which is the purpose of this hearing.

The petitioner's gross household income consists of his wife's earnings and his SSDI payments. His wife works 15 hours per week and earns \$7.40 per hour, which comes to \$477.30 per month. Monthly income is determined by multiplying weekly income by 4.3; 4.3 is used rather than four for the number of weeks in a month because when the 52 weeks in a year are divided by the 12 months, the result is 4.3. The petitioner's SSDI payment is \$747 per month. This brings the total gross monthly household income to \$1,224.30.

The petitioner 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). He is also entitled to an earned income deduction equal to 20% of his wife's \$477.30 earned income, or \$95.46. *See* 7 CFR § 273.9(d)(2). The medical deduction he had been receiving is only available for unreimbursed medical expenses that exceed \$35 per month. 7 CFR §273.9(d)(3); *FoodShare Wisconsin Handbook*, § 4.6.4.1. He was receiving this deduction because he had several hundred dollars in medical bills, but that deduction has ended now that his bills no longer exceed \$35 a month.

The last deduction he 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.* Because the agency did not provide the notice of decision, I cannot tell if it granted this to him, but I will assume that he is entitled to it. This and his \$332 rent bring his shelter costs to \$362 per month. Deducting the \$152 standard allowance and the \$95.46 earned income deduction from his \$1,224.30 gross income, leaves him with \$976.84. Half of this is \$488.42. Because his \$362 in shelter costs are less than this, he is not entitled to that deduction. This means that his household net income is the \$976.84 reached after deducting the standard allowance and

the earned income deduction. The FoodShare allotment for a two-person household, the size of the petitioner's, with this income is \$53. *FoodShare Wisconsin Handbook*, § 8.1.2. This is slightly less than the county agency allotted to him. However, because the agency has not provided its calculations, I do not know what figures it used. It is possible that the figures I used omitted or understated a deduction or overstated his income. Another possibility is that because the FoodShare allotment table online in the *FoodShare Wisconsin Handbook* only goes through September 2014, the agency may have used a more up-to-date table that allows a cost-of-living increase in the benefits. Finally, although I checked my calculations, I may have made an error. Regardless of the cause of the difference, I will give the petitioner the benefit of a doubt by leaving the allotment at the amount determined by the agency rather than reducing it.

CONCLUSIONS OF LAW

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 29th day of September, 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 September 29, 2014.

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