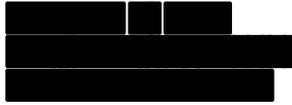




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/160382

PRELIMINARY RECITALS

Pursuant to a petition filed September 05, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Eau Claire County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 21, 2014, at Eau Claire, 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:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Sheila Morden
Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [redacted]) is a resident of Eau Claire County. She lives alone.
2. The petitioner is over 60 years old.
3. The petitioner receives \$1,078 in unearned income each month.

4. The petitioner pays \$685 in rent each month. Her rent includes all of her utilities.
5. The petitioner has not received Energy Assistance in the last year.
6. The petitioner's medical expenses are \$50 per month.
7. The county agency set the petitioner's FoodShare allotment at \$15 per month. Her allotment increased to \$16 in October 2014.

DISCUSSION

The size of a FoodShare allotment depends upon a household's 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 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. Her allotment increased to \$16 per month in October 2014.

The petitioner's gross income consists state and federal disability payments totaling \$1,078 per month. She is entitled to the \$155 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). She is entitled to the excess medical expense deduction for unreimbursed monthly medical expenses that exceed \$35 to those who are at least 60 or who have been found disabled under certain state or federal programs. 7 CFR § 273.9(d)(3) referring to 7 CFR § 271.2; *FoodShare Wisconsin Handbook*, § 4.6.4.1. She provided proof that she has \$50 a month in unreimbursed medical expenses, so this deduction is \$15 per month.

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. She is entitled to \$685 in shelter costs because this is what she pays in rent. Deducting the \$155 standard allowance and the \$15 medical deduction from her \$1,078 gross income, leaves her with \$908. Half of this is \$454. Her shelter deduction is the difference between this and \$685, or \$231. Subtracting this, the \$155 standard deduction, and the \$15 medical deduction from her \$1,078 gross income leaves her with a net income of \$677. The FoodShare allotment for a one-person household, the size of the petitioner's, with this income \$16. *FoodShare Wisconsin Handbook*, § 8.1.2. Because this is what the agency determined, I must uphold its decision.

I am aware that the petitioner now claims she has additional medical expenses. She must report these to the agency to receive credit for them.

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.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability