



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/160593

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 13, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on October 08, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's FoodShare benefits have been correctly calculated as of October 1, 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: Simone Johnson

Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. Petitioner's FoodShare household size is 1.
2. Petitioner filed this appeal to contest a reduction the amount of her FoodShare allotment effective October 2014. The allotment was reduced from \$189.00 to \$16.00.

3. Petitioner filed a six month report form (SMRF) in early September 2014. On it she reported employment at \$8.00 per hour and 20-24 hours per pay period and notes that she is paid every 2 weeks.
4. When the agency processed Petitioner's SMRF it entered the pay period as weekly thereby doubling Petitioner's income and reducing her FoodShare allotment.
5. Petitioner's SMRF notes rent of \$550.00 but \$575.00 was used in the FoodShare allotment calculation.
6. In mid-September Petitioner was contacted by the agency about the error in entry as to frequency of pay and Petitioner informed the agency that her rate of pay had been reduced to \$7.25 per hour.

### **DISCUSSION**

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.* Income received weekly is multiplied by 4.3 and income received bi-weekly is multiplied by 2.15 so as to convert income to a monthly amount.

Once a household passes the gross income test the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$155 per month for a household of 1-3 persons, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction – the utility allowance is a variable based on a number of factors but the ultimate deduction equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.1 and 8.1.3*

As the hearing progressed it became apparent that there were errors made in the calculation of Petitioner's FoodShare allotment effective October 2014. Her rate of pay and the number of hours worked need to be corrected. The amount of her shelter expense needs to be confirmed. If it has not done so already, the agency will have to take the steps necessary to redetermine Petitioner's FS allotment effective October 2014 and issue benefits accordingly.

Finally, just for future reference, Petitioner should note that changes reported in one month are effective in the next. *FSH, §6.1.3.3.*

### **CONCLUSIONS OF LAW**

That the available evidence shows errors in the determination of Petitioner's FoodShare allotment for as of October 2014.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the agency with instructions to take the steps necessary, if it has not done so already, to redetermine the amount of Petitioner's FoodShare allotment effective October 2014 and to issue any necessary supplemental benefits. The steps must be taken within 10 days of the date of this decision.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

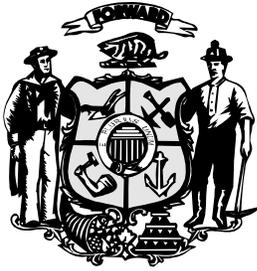
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 11th day of November, 2014

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\sDavid D. Fleming  
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 11, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability