FH
[redacted]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[redacted]

DECISION

FOO/160830

PRELIMINARY RECITALS

Pursuant to a petition filed September 23, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services [MiLES"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on October 16, 2014.

The issue for determination is it was correct to reduce petitioner's monthly FS allotment from $189 to $16 effective October 1, 2014.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:
Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Pang Thao-Xiong, Income Maintenance ["IM"] Specialist Advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [redacted]; 66 years old) is a resident of Milwaukee County, Wisconsin.

2. Petitioner's household size is 1 person (herself) and was receiving an FS allotment of $189.00 per month.

3. Petitioner receives a Social Security benefit of $1,436.00 per month which was not included as part of her FS budget until October 2014.

4. Petitioner's monthly FS allotment decreased from $189.00 per month to $16.00 per month effective October 1, 2014 due the increased household income which resulted from including the Social Security benefit of $1,436.00 per month in her FS budget.

DISCUSSION

When calculating a monthly FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2011); *Foodshare Wisconsin Handbook* ["FWH"] 4.3.2. For purposes of FS *income* includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2011); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction[1].; dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction[2]; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2011); FWH 4.6.1.

Petitioner does not dispute that under the law, based on her household income and allowable deductions, she is entitled to only $16.00 per month in FS effective October 1, 2014.

Petitioner submitted her monthly budget (income and expenses) and testified that she is "really stretching it." This may be correct, but monthly FS allotments must be calculated according to the law.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to reduce petitioner's monthly FS allotment from $189 to $16 effective October 1, 2014.

NOW, THEREFORE, it is

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[1] The excess medical deduction is only for members of the FS household who are elderly, blind, or disabled. Medical expenses incurred by a member of the FS household who is not elderly, blind, or disabled do not qualify for the excess medical deduction. Further, the excess medical deduction is only for that portion of medical expenses that is in excess of $35.00 per month. 7 C.F.R. § 273.9(d)(3)intro. (2011); FWH 4.6.4.

[2] Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2011); FWH 4.6.7.1. When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2011); FWH 4.6.7.3. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2011); FWH 4.6.7.1.

ORDERED

That the petition for review herein be and the same is hereby 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 31st day of October, 2014

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\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals

State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: http://dha.state.wi.us

The preceding decision was sent to the following parties on October 31, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability