



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/160900

PRELIMINARY RECITALS

Pursuant to a petition filed September 25, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to FoodShare benefits (FS), a telephonic hearing was held on November 05, 2014, at Green Bay, Wisconsin.

The issue for determination is whether the county agency correctly calculated the petitioner's FoodShare (FS) benefits to be \$16 as of October 1, 2014, due to no allowable deduction for his IRS garnishment per FS Handbook, 4.6.1.

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: Nicole Vincent, ESS
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 54 year old resident of Brown County.
2. The petitioner receives FoodShare (FS) benefits for a household of one.

3. During his review, petitioner submitted his payments from his employer, [REDACTED].
4. The petitioner has an average monthly earned income of \$1,445.79 for the months of August, September, and October, 2014 based upon an average of his submitted paychecks from [REDACTED].
5. The county agency sent a September 3, 2014 Notice of Decision to the petitioner stating that his FS benefits was \$16 effective October 1, 2014 which was an increase from \$15 for September, 2014.
6. The county agency established the accuracy of petitioner's \$16 in FS for October, 2014 based upon his October, 2014 "budget screen" which itemized the calculation of his October, 2014 FS benefits.
7. The petitioner questioned why his IRS garnishment was not allowed as a deduction to his gross income in determining his FS benefits.
8. An IRS garnishment is not one of the specific FS deductions allowed from gross income pursuant to the FS Handbook, 4.6.1, "Deductions and Expenses."

DISCUSSION

When calculating a FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a) (1) & 273.10(c) (2010); 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); 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; dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction; and, standard utility allowance. **No other deductions are allowed.** 7 C.F.R. § 273.9(d) (2010); FWH 4.6.1.

Petitioner does not dispute that without any IRS garnishment as a deduction, the county agency correctly determined his FS benefits to be \$16 as of October, 2014. However, petitioner argues that his IRS garnishment is a substantial expense, and should be allowed as a deduction from his gross income in determining his FS benefits. However, the county agency correctly responded that an IRS garnishment is not one of the specific allowable FS deductions from gross income allowed under the FS Handbook, 4.6.1, "Deductions and Expenses," as explained above. Accordingly, based upon the above, I conclude that the county agency correctly calculated the petitioner's FoodShare (FS) benefits to be \$16 as of October 1, 2014, due to no allowable deduction for his IRS garnishment per FS Handbook, 4.6.1.

CONCLUSIONS OF LAW

The county agency correctly calculated the petitioner's FoodShare (FS) benefits to be \$16 as of October 1, 2014, due to no allowable deduction for his IRS garnishment per FS Handbook, 4.6.1.

THEREFORE, it is

ORDERED

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 21st day of November, 2014

\sGary M. Wolkstein
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 21, 2014.

Brown County Human Services
Division of Health Care Access and Accountability