



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/160996

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 02, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a hearing was held on October 22, 2014, at Ashland, Wisconsin.

The issue for determination is whether the agency correctly determined 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: Beulah Garcia

Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Ashland County. He lives alone.
2. The county agency notified the petitioner on July 14, 2014, that his FoodShare would fall to \$15 per month as of August 1, 2014.

3. The petitioner's monthly income when the agency last determined his FoodShare allotment consisted of earnings of \$789.27 and unemployment compensation of \$915.90 for a total income of \$1,705.17.
4. The petitioner is under 60 years old. He has not been found disabled.
5. The petitioner's rent is \$450 per month. He pays for his telephone but his other utilities are included in his rent.

### DISCUSSION

The county agency seeks to reduce the petitioner's FoodShare allotment to \$15 per month because it contends it had been incorrectly determining his benefits. He contends that the agency did not consider that he has a large number of outstanding bills, including medical bills. The size of his allotment depends upon his 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). Therefore, his expenses can be considered only if they fall within one of the listed deductions.

The petitioner's gross income consists of earnings of \$789.27 and unemployment compensation of \$915.90 for a total income of \$1,705.17. His monthly unemployment income was determined by multiplying his \$213 weekly unemployment 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.

There is a deduction for medical expenses, but the petitioner does not qualify for it because he is not at least 60, blind, or disabled. 7 CFR § 273.9(d)(3); *FoodShare Wisconsin Handbook*, §§ 4.6.4.1. and 3.8.1.1.

He is entitled to the \$152 standard deduction allowed at the time of the agency's determination 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 \$789.27 earned income, or \$157.85. See 7 CFR § 273.9(d)(2).

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. This deduction has fallen for many recipients because federal law no longer provides a heating utility allowance to those whose utilities are included in their rent unless they receive at least \$20 a month in heating assistance. *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. Earlier, a household only needed \$1 a month in heating assistance to qualify. Most states that had provided \$1 a month in energy assistance raised this amount \$20, but Wisconsin did not. There is still a \$30 utility allowance for those who pay their own telephone bill, but this is much less than the \$450 allowance that was allowed for those who paid their own heat when the agency last determined the petitioner's benefits. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. The \$30 telephone allowance and his \$450 rent bring his shelter costs to \$480 per month. Subtracting the \$152 standard allowance and the \$157.85 earned income deduction from his \$1,705.17 gross income leaves him with \$1,395.32. Half of this is \$697.66. Because his \$480 in shelter costs are less than this, he is not entitled to that deduction. This means that his net household income is the \$1,395.32 reached after deducting the standard allowance and the earned income deduction. The FoodShare allotment for a one-person household, the size of the petitioner's, with this income was \$15 when the agency determined his allotment. *FoodShare Wisconsin Handbook*, § 8.1.2. Because this is the amount that the agency correctly determined, I must uphold its decision.

### CONCLUSIONS OF LAW

The FoodShare 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 1st day of December, 2014

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\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 December 1, 2014.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability