



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

FOO/161405

PRELIMINARY RECITALS

Pursuant to a petition filed October 21, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on November 18, 2014, at Wausau, Wisconsin.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare allotment after determining that he was not entitled to credit for heating costs included in his rent.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Maikou Yang
Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Marathon County.
2. The petitioner receives \$804.78 in unearned income each month.
3. The petitioner pays rent each month. His rent includes all of his utilities except telephone.

4. The petitioner has not received Energy Assistance in the last year.
5. Over the past several months, the county agency reduced the petitioner's FoodShare allotment from \$163 to \$44 per month.

### DISCUSSION

The size of a FoodShare allotment depends upon 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). The county agency reduced the petitioner's FoodShare allotment to \$44 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.

The petitioner's gross income consists of Supplemental Security Income (SSI) payments totaling \$804.78 per month. He is entitled to the \$152 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). He is not entitled to an earned income deduction because SSI payments are not considered to be earned income. *See* 7 CFR § 273.9(d)(2). The only other 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. 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 to \$20, but Wisconsin did not. There is a \$30 telephone allowance for those who do not pay for their own heat but have a telephone bill. *Id.* Subtracting applicable deductions from his gross income leaves net income of \$499.67. The FoodShare allotment for a one-person household, the size of the petitioner's, with this income was \$44. Because this is what the agency determined, I must uphold its decision.

### CONCLUSIONS OF LAW

1. The petitioner is not entitled to the Heat Utility Standard Allowance because his heat and electricity are included in his 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 8th day of December, 2014.

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\sPeter McCombs  
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 8, 2014.

Marathon County Department of Social Services  
Division of Health Care Access and Accountability