



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

FOO/161762

PRELIMINARY RECITALS

Pursuant to a petition filed November 05, 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 November 25, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly determined the sufficiency of the petitioner's FS.

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

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. The petitioner is categorically eligible for FoodShare benefits.
3. The petitioner receives \$804.78 in unearned income each month.

4. The petitioner pays \$231.00 in rent each month.
5. The petitioner has not received Energy Assistance in the last year.
6. The county agency set the petitioner's FoodShare allotment at \$16 per month effective December 1, 2014.

### DISCUSSION

The size of a FoodShare allotment depends upon a household's 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 \$16 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 state and federal disability payments totaling \$804.78 per month. He is entitled to the \$155 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 disability payments are not considered to be earned income. *See* 7 CFR § 273.9(d)(2). He is entitled to the excess medical expense deduction for unreimbursed monthly medical expenses that exceed \$35 to those who are at least 60 or who have been found disabled under certain state or federal programs. 7 CFR § 273.9(d)(3) referring to 7 CFR § 271.2; *FoodShare Wisconsin Handbook*, § 4.6.4.1. He has not provided proof that he has over \$35 a month in unreimbursed medical expenses..

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 \$20, but Wisconsin did not.

Petitioner is entitled to \$261.00 in shelter costs because this is what he pays in rent and qualifying utilities (phone). Deducting the \$155 standard allowance from his \$804.78 gross income, leaves him with \$649.78 in net monthly income. Half of this is \$324.89. Petitioner's shelter cost, i.e., the amount he pays in rent, is 261.00, which does not exceed \$324.89 (half of his remaining net income), and therefore results in no shelter deduction. The FoodShare allotment for a one-person household is determined by subtracting 30% of the petitioner's net income (195.00) from the maximum FS allotment for a single person (\$194). While this would be a negative number, since petitioner is categorically eligible for FS, he was correctly allotted the minimum FS benefits of \$16. *See FoodShare Wisconsin Handbook*, § 8.1.2.

### CONCLUSIONS OF LAW

The county agency correctly calculated the petitioner's FoodShare allotment based on those deductions applicable to petitioner's case.

**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 23rd 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 23, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability