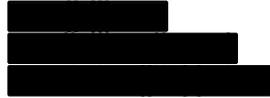




STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/161898

**PRELIMINARY RECITALS**

Pursuant to a petition filed November 13, 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 December 02, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly ended the Petitioner’s FoodShare benefits effective November 1, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Pang Thao-Xiong, Income Maintenance Specialist Advanced  
Milwaukee Enrollment Services  
1220 W. Vliet St., Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. On October 13, 2014, the agency sent the Petitioner a notice advising her that her FoodShare benefits would be ending effective November 1, 2014, because her household income went over the program limits. (Exhibit 2, pgs. 9-13)
3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 13, 2014. (Exhibit 1)

4. Petitioner’s assistance group consists of four people, the Petitioner, her husband and their children. (Testimony of Petitioner; Exhibit 2, pg. 5)
5. The Petitioner pays rent in the amount of \$650.00 per month, which does not include heat. (Testimony of Petitioner; Exhibit 2, pgs. 11 and 35)
6. Beginning in September 2013, Petitioner’s husband received \$218 per week in Unemployment Insurance Benefits (UIB). This works out to be:  $\$218 \times 4.3$  average weeks per month = \$937.40 per month. (Exhibit 2, pg. 21)
7. Petitioner’s husband also had employment income. He worked an average of 30.71 hours per bi-weekly pay period at a rate of \$8.75 an hour. He also worked an average of 6.08 hours per bi-weekly pay period at \$10.00 per hour. This works out to be:

$30.71 \text{ hours} \times \$8.75 \times 2.15$  average bi-weekly pay periods per month = \$577.73

$6.08 \text{ hours} \times \$10.00 \times 2.15$  average bi-weekly pay periods per month = \$130.72

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Total: \$708.45

(See Exhibit 2, pgs. 26-27)

8. Petitioner’s son receives Federal Social Security Disability Income in the amount of \$721.00 per month and State Supplemental Security Income in the amount of \$135.05 per month for a total of \$856.05. (Exhibit 2, pg. 20)

### DISCUSSION

To be categorically eligible, most FoodShare group must have income at or below 200% of the Federal Poverty Level (FPL). *FSH §4.2.1.1; 7 CFR 273.2(j)(2)*. “If the household's gross income goes over 200% of FPL, the case will close.” *Id.* 200% of FPL for an assistance group of 4 is \$3976 per month. *FSH §8.1.1.1*

However, “Households that include an elderly, blind or disabled member do not have a gross income limit, but must have net income that does not exceed 100% FPL and countable assets that do not exceed \$3,250.” *FSH §4.2.1.5* For households with four people, 100% of FPL is \$1,988 per month. *FSH §8.1.1.1*

The agency must budget all income of the FoodShare household, including all earned and unearned income. *7 CFR § 273.9; FSH § 4.3.1, 4.3.2 and 4.3.4*. The allotment calculation is based on **prospectively** budgeted monthly income using estimated amounts. *FSH §4.1.1*.

Because Petitioner’s household has a disabled member, Petitioner does not have to pass the gross income test, but she must meet the \$1,988 net income test to be eligible for benefits.

#### *Petitioner’s Net Income*

To determine net income, the following deductions are applied to gross income (*FSH, at § 4.6*):

- (1) a standard deduction –

This is \$165 per month for a household of four people. *7 CFR § 273.9(d)(1)*

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;

For Petitioner this works out to be:  $\$708.45 \times 20\% = \$141.69$

- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 CFR § 273.9(d)(3);

The Petitioner indicated that her son did not have any out of pocket medical expenses.

- (4) dependent care deduction for child care expenses, 7 CFR § 273.9(d)(4); and

The Petitioner did not report any child care expenses.

- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 CFR § 273.9(d)(5).

The heating standard utility allowance (HSUA) is \$446 per month.

There is a cap of \$490.00 on the shelter cost deduction, *unless* a household, like Petitioner’s, has an elderly, blind or disabled member.<sup>1</sup>

*FSH, §§ 4.6.7.1 and 8.1.3.*

Petitioner’s total gross income works out to be:

\$937.40 Unemployment Benefits  
 +\$708.45 Husband’s earned income  
 +\$856.05 Son’s SSDI/SSI payments  
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 \$2501.90 Total Gross Income

Applying the deductions allowed under FSH, at § 4.6 to Petitioner’s gross income we have the following net income calculation for November 2014:

Gross Income	\$2501.90	Rent	\$650.00
Earned Income Deduction	-\$141.69	HSUA	+\$446.00
Standard Deduction	-\$165.00	50% Net income	- \$1097.60
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		Excess Shelter Expense	\$0
<hr/>			
Net Income before Shelter Expense	\$2195.21		
Excess Shelter Expense	-\$0		
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Total Net Income	\$2195.21		

Petitioner’s Net Income of \$2195.21 exceeded the 100% FPL limit of \$1,988 per month for a household of four. *FSH §8.1.1.1* Thus, per *FSH §4.2.1.5*, the agency correctly ended Petitioner’s FoodShare benefits effective November 1, 2014.

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<sup>1</sup> The term ‘disabled’ is a term with a definition as to the FoodShare program:

**3.8.1.1 EBD Introduction**

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

*FSH, §3.8.1.1.*

At the hearing, Petitioner indicated that she anticipated changes in her income. If that has happened or does happen, Petitioner should report that change and reapply for benefits.

The Petitioner expressed serious concerns about her ability to feed her family. There is a list of food pantries that can be found at [http://www.needhelppayingbills.com/html/milwaukee\\_food\\_pantries.html](http://www.needhelppayingbills.com/html/milwaukee_food_pantries.html) and at <http://www.foodpantries.org/ci/wi-milwaukee>. In addition, Petitioner might receive additional information from the Hunger Task Force: (414) 777-0483 or Feeding America (Formerly Second Harvest): (414) 931-7400.

**CONCLUSIONS OF LAW**

The agency correctly ended the Petitioner’s FoodShare benefits effective November 1, 2014.

**THEREFORE, it is ORDERED**

The petition 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 Milwaukee,  
Wisconsin, this 17th day of December, 2014.

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\sMayumi M. Ishii  
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 17, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability