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[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/161977

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 13, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by Brown County Human Services in regard to FoodShare benefits (FS), a hearing was held on December 11, 2014, at Green Bay, Wisconsin.

The issue for determination is whether Brown County Human Services (the agency) correctly determined the Petitioner's FoodShare allotment, effective December 1, 2014.

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: Alnilda Albizu, Economic Support Specialist  
Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.

2. On October 21, 2014, the agency contacted the Petitioner to complete a FoodShare review. At that time the Petitioner reported that she only pays a phone utility and that heat and electricity are included in her rent. (Testimony of Ms. Albizu; Exhibit 3)
3. On October 22, 2014, the agency sent the Petitioner a notice indicating that her FoodShare benefits would be reduced from \$179.00 per month to \$54.00 per month, effective December 1, 2014. (Exhibit 6)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 13, 2014.
5. The Petitioner received \$721.00 in Federal Supplemental Security Income and \$83.78 per month in State Supplemental Security Income for a total of \$804.78 per month. (Testimony of Petitioner; Exhibit 5)
6. The Petitioner pays \$480.00 in rent, which includes heat and electricity. (Testimony of Petitioner; Exhibits 2, 4 and 6)
7. Petitioner pays for a cell phone. (Testimony of Petitioner; Exhibit 4)

### DISCUSSION

Petitioner filed an appeal to contest the reduction of his FoodShare benefits.

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (FSH, at § 4.6):

- (1) a standard deduction –

Effective October 1, 2014, this was \$155.00 for an assistance group of 1-3 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);

Petitioner does not have any earned income, so this would not apply to her.

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

Petitioner did not report any out of pocket medical expenses.

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

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).

There is a cap on this deduction of \$490 per month, unless the recipient is elderly, blind or disabled, meaning a food unit member age 60 or older or a person 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.

FSH, §§ 4.6.7.1 and 8.1.3.

Previously, Federal Regulations allowed households who received at least \$1.00 in energy assistance to receive an income deduction for the Heating Standard Utility Allowance (HSUA). (Ops Memo 14-16) In 2009, the State of Wisconsin issued an annual energy assistance payment of \$1.00 to FoodShare households who did not already receive energy assistance. (Id.) This allowed all households to receive an income deduction for the HSUA, which is currently, \$446. (Id.)

The 2014 Farm Bill changed the Federal Regulations to require households to receive greater than \$20 in energy assistance, in order to receive the \$446 HSUA. (Ops Memo 14-16) Consequently, Effective April 1, 2014, the State of Wisconsin stopped providing the \$1.00 energy assistance to households not who were not receiving energy assistance. (Id.) Consequently, many of those households, including the Petitioner's, lost the HSUA deduction, because they did not pay a separate bill for heat.

However, because the Petitioner does pay a cell phone bill, she is entitled to a \$30.00 Phone Utility Allowance (PUA). *FSH* §§ 4.6.7.1 and 8.1.3

Applying the applicable deductions to Petitioner's income we have the following net income calculation for December 1, 2014:

Gross Income	\$804.78	Rent	\$480.00
No Earned Income Deduction		HSUA	+\$30.00
Standard Deduction	-\$155.00	50% Net income	-\$324.89
No Medical Expenses exceeding \$35			
No Dependent Care Expenses		Excess Shelter Expense	\$185.11
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Net Income Before Shelter Expense	\$649.78		
Excess Shelter Expense	- \$185.11		
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Net Income	\$464.67		

Individuals, in a household of one, with a net income of \$464.67 qualified for a FoodShare allotment of \$54.00 per month. *FSH* §8.1.2

The Petitioner asserts that she needs a higher allotment of FoodShare benefits, because she has special dietary needs. However, the FoodShare regulations specifically prohibit deductions for special diets. *FSH* §4.6.4.2

**CONCLUSIONS OF LAW**

The agency correctly calculated the Petitioner's FoodShare allotment effective December 1, 2014.

**THEREFORE, it is ORDERED**

That 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 16th 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 16, 2014.

Brown County Human Services  
Division of Health Care Access and Accountability