



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

FOO/161944

PRELIMINARY RECITALS

Pursuant to a petition filed November 14, 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 telephonic hearing was held on December 03, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare (FS) benefits from \$105 to \$15 effective July 1, 2014, due to petitioner no longer having any utility bill to create a FS utility deduction.

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: [Redacted] IM advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County who receives FoodShare (FS) benefits for a household of one. See Exhibit 4.
2. The petitioner completed her FS renewal during May, 2014, and reported to Milwaukee Enrollment Services (MES) that she no longer pays any utility bill because her utilities are

included in her rent (her shelter expense of \$616 included the utilities of electric and gas expense). See Exhibit 2. Petitioner does not have a separate telephone expense.

3. A FS recipient only receives a utility credit deduction when that FS recipient pays for utility bills per Operations Memo 14-16, issued April 18, 2014 (effective 4-28-14). Petitioner's lack of a utility bill resulted in no utility deduction in calculating her FS benefits as of July, 2014, as documented by the county's FS budget screens for the petitioner during the relevant months. See also FoodShare Handbook, 4.6.7.3. See Exhibit 3.
4. Milwaukee Enrollment Services correctly sent a May 20, 2014 Notice of Decision to the petitioner stating that her FS benefits would be reduced from \$105 to \$15 effective July 1, 2014, as explained in Findings of Fact #2 and #3 above.
5. The petitioner received the following FS benefits: a) July - September, 2014 - \$15; and b) October and November, 2014 - \$16. See Exhibit 3.
6. Milwaukee Enrollment Services (MES) incorrectly and in error (regarding Operations Memo 14-16 policy) sent an October 8, 2014 Notice of decision to the petitioner stating that she would be eligible for an increase in FS to \$103 as of July 1, 2014.
7. MES sent a November 17, 2014 Negative Notice to the petitioner stating that her FS benefits would decrease from \$105 to \$15 as of July 1, 2014, due to agency error to have granted petitioner a heating utility allowance, when petitioner was not eligible for a utility deduction per Operations Memo 14-16.
8. The petitioner filed an appeal of her July, 2014 FS reduction which was received on November 14, 2014 at the Division of Hearings and Appeals (DHA).

### DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. §273.9(b). From the gross household income, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is \$134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction - for medical expenses exceeding \$35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and **(5) shelter expenses deduction - the deduction is equal to the excess expense above 50% of net income remaining after other deductions.** 7 C.F.R. §273.9(d) (5). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

During the December 3, 2014 hearing, the MES representative provided petitioner a detailed explanation regarding the calculation of the July 1, 2014 reduction in her FS benefits. Ms. Rec Redact explained and documented that due to petitioner no longer having a utility expense deduction, her FS benefits decreased as of July 1, 2014. See Findings of Fact #2 - #5 above. The petitioner admitted that she had no utility bill, and was unable to refute the county's case that it had correctly calculated the petitioner's household income and lack of utility deduction for a FS household which thus reduced her FS benefits. However, petitioner argued that she should be eligible for \$103 in FS as of July, 2014 due to MES sending to her an October 8, 2014 notice. Ms. Redact responded in detail that the October 8, 2014 notice was incorrect and was sent in error to petitioner due to not following Operations Memo 14-16 or the FoodShare Handbook, 4.6.7.3. See Finding of Fact #6 and #3 above. MES then sent a November 17, 2014 notice to petitioner correcting the October 8, 2014 notice. The petitioner explained that she has many bills and needs the additional FS benefits (before the FS reduction). However, in reviewing the full history of MES's calculation of petitioner's FS benefits as of July, 2014 based upon FS policy and law, I find no error.

Accordingly, for the above reasons, I must conclude that Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare (FS) benefits from \$105 to \$15 effective July 1, 2014, due to petitioner no longer having any utility bill to create a FS utility deduction.

### CONCLUSIONS OF LAW

Milwaukee Enrollment Services (MES) correctly reduced the petitioner's FoodShare (FS) benefits from \$105 to \$15 effective July 1, 2014, due to petitioner no longer having any utility bill to create a FS utility deduction.

**THEREFORE, it is**

**ORDERED**

The petition for review herein be and the same is hereby 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 6th day of January, 2015

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\sGary M. Wolkstein  
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 January 6, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability