



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
Redact
[Redacted]

DECISION

FOO/162077

PRELIMINARY RECITALS

Pursuant to a petition filed November 18, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a telephone hearing was held on December 16, 2014.

The issue for determination is whether the respondent correctly calculated petitioner's FS allotment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

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

By: [Redacted]

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Lincoln County.
2. The petitioner lives alone.
3. The petitioner's income consists of \$824.78 in social security and supplemental security income each month.

4. Respondent's budget calculation includes petitioner's current rent obligation in the amount of \$233.00 per month and a monthly utility deduction of \$321.00. Exhibit 6.
5. The county agency reduced the petitioner's FoodShare allotment from \$287.00 to \$58.00 per month because her calculated shelter costs fell after the federal government adjusted the "heat standard" utility allowance and her daughter was removed from her FS household. See, Exhibit 3.

### DISCUSSION

FoodShare benefits depend 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 petitioner lives alone and receives \$824.78 per month in social security and supplemental security income, which is considered unearned income. Her allowable deductions include the \$155 standard deduction allowed for all household with up to three persons and, potentially, a shelter deduction based on a rather complex formula that considers various expenses associated with maintaining a dwelling. (The authority for the standard deduction is found at *FoodShare Wisconsin Handbook*, §§ 4.6.2 and 8.1.3 and 7 CFR § 273.9(d)(1).)

Expenses considered when determining the shelter deduction include rent and utilities. Until recently, the shelter deduction for almost everyone in Wisconsin included a "heat standard utility allowance," currently set at \$450, even if their utilities were included in their rent. This allowance was available to anyone who received energy assistance. Wisconsin and other states took advantage of this provision by granting those whose utilities were included in their rent a nominal \$1 energy assistance payment. The Agriculture Act of 2014 ended this practice. Title IV, § 4006 of that act now allows a standard utility allowance only if the recipient received an energy assistance payment of at least \$20 in the last 12 months.

The effect of this change is seen when the petitioner's shelter deduction is calculated. The shelter deduction equals the amount that housing costs exceed 50% of the net income remaining after all other deductions are subtracted from gross income. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. When the petitioner's only other deduction, the \$155 standard deduction, is subtracted from her \$824.78 monthly income, her remaining income is \$669.78. Half of this is \$334.89. Her shelter costs had consisted of her \$326.00 rent plus her \$450 heat standard utility allowance, giving her total costs of \$772.00. This exceeded 50% of her adjusted income by \$437.11, which became her shelter deduction. Petitioner's shelter costs are now composed of \$233.00 rent and, pursuant to the provisions in the latest farm bill, a \$321 utility allowance. *FoodShare Wisconsin Handbook*, § 8.1.3. This adds up to \$554.00. Subtracting 50% of her adjusted income, she now receives a shelter deduction of \$219.11. As a result, her allowable deductions are the \$155 standard deduction and a \$219.11 shelter deduction; her net income, then, is \$232.67.

Her allotment is further modified from the previous amount due to the uncontested fact that her daughter is no longer a member of her FS household. The FoodShare allotment is \$58.00 for a single person with net income of \$232.67. *FoodShare Wisconsin Handbook*, § 8.1.2. Based upon this, I must uphold the agency's decision.

In making this decision, I am aware that the petitioner contends that this reduction will create a hardship for her, and I do not doubt that testimony. Nevertheless, I have no authority to ignore the various statutes and regulations affecting the FoodShare program.

### CONCLUSIONS OF LAW

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 14th day of January, 2015.

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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 January 14, 2015.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability