



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/162083

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 January 22, 2015. A hearing originally scheduled for December 16, 2014, was rescheduled at petitioner's request.

The issue for determination is whether the county agency correctly determined the petitioner's FoodShare allotment.

There appeared at that time 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: Beulah Garcia

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 Wood County.

2. The petitioner is an ongoing FoodShare recipient. She was receiving \$84 per month as recently as September, 2014. In October, 2014, petitioner's allotment was reduced to \$16.00 due to petitioner's report that his rent for his new residence included his heat.
3. The petitioner applied for WHEAP (energy assistance) on or about November 4, 2014. He was approved and received his first WHEAP assistance allotment in December, 2014. As a result of petitioner's qualification for and receipt of WHEAP assistance, petitioner's FS will increase to \$106 monthly effective January, 2016.
4. On November 18, 2014, petitioner appealed his FS allotment for the months of October-December, 2014.

DISCUSSION

The size of a FoodShare allotment depends upon household 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 from \$84 to \$16 per month because recipients do not receive a utility allowance if their utilities are included in their rent, unless the person receives energy assistance. *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. 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 a \$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. I have reviewed the agency's calculations and find no errors.

Following petitioner's approval for WHEAP benefits, the respondent determined that petitioner's benefits would increase effective January, 2015. FoodShare rules hold that "[a]ll reported changes that cause an increase in the FS benefit...will be effective the first of the month following the report month." See *FoodShare Wisconsin Handbook*, § 6.1.3.3.; *see also*, 7 CFR 273.12(c)(1). Relying upon this rule, the agency correctly waited until January to increase her benefits.

CONCLUSIONS OF LAW

1. The petitioner was not entitled to the Heat Utility Standard Allowance from October-December, 2014, because his heat and electricity are included in his rent.
2. The respondent correctly determined the petitioner's FoodShare allotment increase effective January, 2015.

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 4th day of February, 2015.

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 4, 2015.

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