



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

FOO/162328

PRELIMINARY RECITALS

Pursuant to a petition filed November 29, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 18, 2014, at Neillsville, Wisconsin.

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

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: Redact

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Clark County and ongoing FS recipient in a 1-person FS household.

2. Petitioner completed a Six-Month Renewal Form on November 17, 2014; he reported on shelter or utility costs.
3. Petitioner has monthly earned income of \$116.50 from farming, and \$600.00 from Social Security. Petitioner reported medical expenses of \$51.00.
4. On November 18, 2014, the respondent notified petitioner that, effective December 1, 2014, his FS would decrease from \$97 to \$37, due to a change in the calculation of his shelter/utility benefits.

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 \$716.50 per month in social security and earned income. His allowable deductions include the \$155 standard deduction allowed for all household with up to three persons, \$23.30 in earned income deduction, and \$16 in excess medical expense.

Expenses considered when determining the shelter deduction include rent and utilities. Petitioner reports no rental expense. 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.

When the petitioner's \$155 standard deduction, \$23.30 earned income deduction, and \$16 excess medical deduction are subtracted from his \$716.50 monthly income, his remaining income is \$522.20. Because no rent or utility obligations were identified, petitioner does not receive a shelter deduction. The FoodShare allotment is \$37 for a single person with net income of \$522.20. *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 him, and I do not doubt that it will, given the on-going farming bills that were submitted for review. Unfortunately, petitioner's business-related bills are not deductible expenses for FS purposes, and I have no authority to ignore the various statutes and regulations affecting the FoodShare program.

CONCLUSIONS OF LAW

1. The petitioner is not entitled to the Heat Standard Utility Allowance because he has not identified any monthly rent or utility obligations.
2. The county agency correctly determined the petitioner's FoodShare allotment.
- 3.

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 15th day of January, 2015.

\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 15, 2015.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability