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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redacted

DECISION

FOO/162382

PRELIMINARY RECITALS

Pursuant to a petition filed December 02, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Douglas County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 13, 2015, at Superior, Wisconsin.

The issue for determination is whether the petitioner is entitled to a heating allowance if he does not does not pay for his own utilities or get energy assistance benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:
Petitioner:

Redacted,
By: Redacted, Representative Payee
Redacted

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Redacted
Douglas County Department of Human Services
1316 North 14Th Street
Suite 400
Superior, WI 54880

ADMINISTRATIVE LAW JUDGE:
Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # Redacted) is a resident of Douglas County.

2. The county agency reduced the petitioner's FoodShare allotment from $140 to $16 per month on as of December 1, 2014.
3. The petitioner receives $804.78 per month in state and federal SSI. He does not receive any other income.
4. The petitioner pays $350 a month for rent. His utilities are included in his rent.

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 $140 to $16 per month because recipients no longer 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.

CONCLUSIONS OF LAW

1. The petitioner is not entitled to the Heat Utility Standard Allowance because his heat and electricity are included in his rent.
2. 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 13th day of January, 2015

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\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals

State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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

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The preceding decision was sent to the following parties on January 13, 2015.

Douglas County Department of Human Services
Division of Health Care Access and Accountability