



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

FOO/162753

PRELIMINARY RECITALS

Pursuant to a petition filed December 18, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to FoodShare benefits (FS), a telephone hearing was held on January 08, 2015.

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

There appeared at that time 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]

Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Fond Du Lac County, and an ongoing FS recipient in a two-person household. Both petitioner and her husband are disabled.
2. Petitioner verified new medical expenses on or about November 25, 2014, which resulted in an increase in petitioner's FS allotment. The increase was set to apply to December's \$118.00 allotment, but since that allotment was already established, the increased amount for December

was issued as an auxiliary FS allotment in the amount of \$160.00, for a total December allotment of \$278.00.

3. The petitioner's monthly household income when the agency determined her December FoodShare allotment consisted of unearned earnings of \$859.00 for petitioner's husband, and \$490.00 for petitioner. The total gross income of \$1,349.00 is below the gross income limit for a household of two, which is \$2,622.00.
4. The petitioner's rent is \$550 per month. Petitioner pays for heat. Petitioner presented countable medical expenses of \$390.68.

DISCUSSION

The size of petitioner's FS allotment depends upon her 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). Therefore, her expenses can be considered only if they fall within one of the listed deductions.

The petitioner's gross income consists of unearned household income of \$1,349.00. There is a deduction for medical expenses exceeding \$35.00, which petitioner qualifies for, in the amount of \$355.68. 7 CFR § 273.9(d)(3); *FoodShare Wisconsin Handbook*, §§ 4.6.4.1. and 3.8.1.1.

She is also entitled to the \$155 standard deduction allowed at the time of the agency's determination for households with up to three members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). She is not entitled to an earned income deduction, as the household earnings are classified as unearned. *See* 7 CFR § 273.9(d)(2).

The last deduction she is potentially entitled to is the shelter deduction, which equals the amount that housing costs exceed 50% of the net income remaining after all other deductions are subtracted from gross income. Petitioner's shelter deduction is \$261.48. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. Deducting the \$155 standard allowance and the \$355.68 excess medical expense from her \$1,349.00 gross income leaves her with \$838.32. Half of this is \$419.16. Because her \$996 in shelter costs are higher than this, she is entitled to a shelter deduction of \$261.48. This means that her net household income is \$261.48 after deducting all applicable deductions for the month of December. The FoodShare allotment for a two-person household, the size of the petitioner's, with this income was \$278 when the agency determined her allotment. *FoodShare Wisconsin Handbook*, § 8.1.2. Because this is the amount that that the agency correctly determined, I must uphold its decision.

Petitioner's ongoing allotment may continue to adjust upwards and downwards, as the medical expense deduction is applied or is not applied. While I can understand petitioner's confusion regarding the numerous notices and adjustments to her monthly allotment, I have found no error by the respondent. Certainly, the process can be confusing, but that is the inescapable result of incorporating irregular medical expense deductions into budget calculations. Still, it will always be in petitioner's best interest to submit her medical expenses regularly in an effort to ensure that she is receiving the correct FS allotment.

CONCLUSIONS OF LAW

The FoodShare agency correctly determined the petitioner's FoodShare allotment for December, 2014.

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 29th day of January, 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 January 29, 2015.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability