



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/163128

PRELIMINARY RECITALS

Pursuant to a petition filed January 12, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on January 29, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly calculated the petitioner's monthly FS benefits.

There appeared at that time and place 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: Jose Silvestre

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner receives FS for a household of one person. On January 13, 2015, the county agency issued a written notice advising the petitioner that her FS allotment would be \$16, less \$10.00 which was being recouped to pay off an existing overpayment. Exhibit 5.

3. The petitioner’s only current income is \$1,040 every other week. She was previously also employed at ██████████, but is not working there presently; this information has recently been provided to the respondent.

DISCUSSION

The petitioner’s income type and amount is not in dispute. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1.

In calculating the petitioner’s allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department’s *FS Wisconsin Handbook*. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a case with one person is currently set at \$155, per *FS Wisconsin Handbook*, 8.1.5. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly not given here. A Dependent Care Deduction is also taken if she incurs day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person’s allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. Petitioner does have childcare expenses, but there is no record of the latter two expenses here. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii).

Neither the income amount, the deductions, nor the petitioner’s rent expense are contested here. Thus, the allotment calculation correctly looked like this:

MonthlyGross income	2564.95	1
Minus Earned Inc. Deduction	- 512.99	
Minus Standard Deduction	<u>- 155.00</u>	
Adjusted Income	1846.96	
Minus Shelter Deduction	<u>- 47.52</u>	
Net Income	1799.44	

The maximum FS allotment for a household of 2 is \$357.00. 30% of the net adjusted income is \$539.70, which exceeds the maximum allotment; as such petitioner is entitled to the FS minimum allotment of \$16.00.

Ultimately, the petitioner did not challenge the agency’s calculations but contends that the \$6 allotment, following the overpayment recovery, is not enough to feed her family in light of her limited income and significant expenses. While I understand her financial difficulties, I must follow the rules as they are written.

CONCLUSIONS OF LAW

The county agency correctly determined petitioner’s FS allotment.

NOW, THEREFORE, it is **ORDERED**

That the petition herein be 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 2nd day of March, 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 March 2, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability