



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]

DECISION

FOO/163381

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 20, 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 February 10, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's FoodShare benefits have been correctly calculated.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[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:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed this appeal to contest the reduction in the amount of his household FoodShare benefits from \$105.00 to \$46.00 effective February 1, 2015.
3. The agency became aware of a discrepancy in the way it was accounting for Petitioner's income and expenses in determining Petitioner's FoodShare benefits. Petitioner receives Social Security Disability income (SSDI) and has funds withheld from that benefit to pay child support but the agency was also including a child support deduction among the deductions from income. Thus the agency was doubling Petitioner's child support payment.
4. Petitioner's gross SSDI was \$1189.00 but increased by \$20 to \$1209.00 effective January 1, 2015. From that amount \$130.00 has been withheld for child support so Petitioner was actually

receiving \$ 1059.00 per month in 2014 and that changed to \$1079.00 as of January 1, 2015. Petitioner also has \$1.00 of earned income for Medicaid Purchase Plan benefits (MAPP).

5. Petitioner's FoodShare household consists of one person.
6. As already noted, Petitioner receives a \$130.00 deduction for support payments. He is given a standard deduction of \$155.00 and an earned income deduction of \$.20. This brings his adjust income to \$924.80. Half of this is \$462.40. Petitioner is also credited with a shelter expense of \$433.60 based on rent of \$450.00 and a utility allowance of \$446.00.

### DISCUSSION

The correct way to budget a support payment where a person receives SSDI is described in the *FoodShare Wisconsin Handbook (FSH)*:

#### 4.3.4.2 Counted Unearned Income

...

5. Gross Social Security payments less any repayments withheld due to previous overpayments of Social Security benefits. Include any Child Support payments withheld from Social Security payments. This will ensure that Child Support payments are correctly included in the total gross unearned income and correctly budgeted as a Child Support payment deduction.

...

FSH, §4.3.4.2

The primary change to the determination of the amount of Petitioner's FoodShare allotment has been to correct a doubling of the support deduction. The agency had been using the SSDI net of the deduction and then also including it as a separate deduction in the allotment calculation. This was corrected as of February 1, 2015. The treatment of the support deduction now follows the policy cited above.

I will also describe the rest of the FoodShare allotment calculation.

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

The gross income limit for a household of one is \$1946. *FSH, §8.1.1.1.*

If a household passes the gross income test, the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$155 per month for a household of 1-3 persons, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction – the utility expense requires that a household have an actual utility obligation unless a household has received energy assistance in the prior 12 months and then deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* The standard allowance for a phone expense is \$30.00. *FSH, §8.1.3.* There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.3 and 8.1.3.*

In reviewing the calculation of Petitioner's FoodShare allotment I do not find any errors in the final allotment determination for February 2015. The allotment was correctly reduced based on a slight increase in Petitioner's SSDI and the corrected accounting for the support obligation.

As a final note – Petitioner has no excess medical deduction (again, out of pocket medical expenses in excess of \$35.00 per month) but did have a dental appointment coming up at the time of the hearing. If he has expenses from the dental provider or other medical expenses that exceed \$35.00 per month he should report those expenses to the agency as soon as possible. A reported change in income or expenses can affect the FoodShare allotment in the month following the report of the change. *FSH, §6.1.3.3.*

### CONCLUSIONS OF LAW

That the available evidence is sufficient to demonstrate that the agency correctly reduced Petitioner's FoodShare effective February 1, 2015.

**THEREFORE, it is**

**ORDERED**

That this 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 Milwaukee,  
Wisconsin, this 17th day of March, 2015

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\sDavid D. Fleming  
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 17, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability