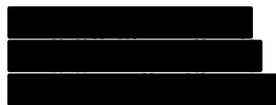




STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/163461

**PRELIMINARY RECITALS**

Pursuant to a petition filed January 22, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to FoodShare benefits (FS), a hearing was held on February 17, 2015, at Waukesha, Wisconsin.

There remains no issue for determination.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Kathleen Jones

Waukesha County Health and Human Services  
514 Riverview Avenue  
Waukesha, WI 53188

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # ) is a resident of Waukesha County.
2. On January 9, 2015 the agency sent the petitioner a notice stating that his monthly FoodShare (FS) benefits would be ending effective February 1, 2015 because the petitioner would be receiving social security retirement income, and would no longer be eligible for FS benefits.

3. On January 26, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.
4. The agency reviewed the petitioner's case, and determined that the petitioner would not began receiving this additional income from social security until March 2015.
5. On February 9, 2015 the agency sent the petitioner a notice stating that his FS benefits would end on March 1, 2015 because he would be receiving additional social security income in March.
6. The petitioner agrees that he will be receiving social security income in the amount of \$2,079.00 in March 2015.

### DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. 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 household size of 1 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

In this case the only issue was the petitioner's monthly FS benefits for February 2015. The agency re-determined those benefits and fixed their error. Both the agency and the petitioner agree that he will not receive social security income in February. There is further agreement that the petitioner will receive \$2,079.00 in social security income in March 2015. I reviewed the agency's calculations, and the petitioner's monthly social security income makes him ineligible for FS benefits effective March 1, 2015. The petitioner does not dispute this, and the agency fixed their February error. Thus, there remains no issue for my determination.

### CONCLUSIONS OF LAW

There remains no issue for determination.

**THEREFORE, it is**

**ORDERED**

That the petition 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 20th day of February, 2015

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\sCorinne Balter  
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 February 20, 2015.

Waukesha County Health and Human Services  
Division of Health Care Access and Accountability