



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/163738

PRELIMINARY RECITALS

Pursuant to a petition filed February 03, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Rusk County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on March 19, 2015, at Ladysmith, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner's FoodShare allotment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact

Rusk County Department of Social Services
Courthouse
311 Miner Avenue East, Suite C240
Ladysmith, WI 54848

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redact) is a resident of Rusk County.
2. The petitioner completed her FoodShare renewal on December 17, 2014. The department notified her on January 28, 2015, that she would receive \$16 in FoodShare each month.

3. The petitioner receives \$1,319.90 in social security each month. She receives no other income.
4. The petitioner's medical expenses are \$399.57 per month. She is over 60 years old.
5. The petitioner pays an average of \$75 for homeowner's insurance and \$28.65 for property taxes each month.
6. The petitioner lives alone.

DISCUSSION

A person is categorically eligible for FoodShare unless she has committed a drug felony or FoodShare fraud. *FoodShare Wisconsin Handbook, FoodShare Wisconsin Handbook*, § 4.2.1.1. The parties agree that the petitioner is categorically eligible for FoodShare benefits. The amount of her benefit depends upon the number of persons in her household and her net income. Net income is determined by subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d). The petitioner believes that she should receive more FoodShare than the county agency awarded, primarily because she believes the agency understated her medical deduction. .

The petitioner lives alone. Her gross income is \$1,319.90, all from social security and thus considered unearned. The first deduction she is entitled to is the \$155 standard deduction allowed for households with up to three members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). The next is the excess medical deduction already alluded to. This deduction, available to those who are disabled or over 60, is equal to all unreimbursed monthly medical expenses that exceed \$35. 7 CFR § 273.9(d)(3) referring to 7 CFR § 271.2; *FoodShare Wisconsin Handbook*, § 4.6.4.1. The county agency initially determined that the petitioner's monthly medical expenses were \$362.79, but after she submitted more documentation, it increased those expenses to \$399.57. I have reviewed these figures, and they are accurate. This increases her deduction from \$327.29 to \$364.57 per month. But that does not automatically increase her FoodShare allotment; sixteen dollars is the minimum allotment and is provided for a broad range of income.

Finally, she is entitled to a shelter deduction. The shelter deduction, unlike the others, is based upon a fairly complex formula rather than actual expenses. It equals the amount that housing costs, including a standard utility allowance currently set at \$446, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. (Because there is a standard utility allowance, actual utility costs are not considered.) *FoodShare Wisconsin Handbook*. § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. The maximum shelter deduction is \$490. *FoodShare Wisconsin Handbook*, § 8.1.3. Each month, the petitioner pays an average of \$28.65 for property tax and \$75 for homeowner's insurance. Because she owns her home and pays her own utilities, the \$446 standard utility deduction is added to this, bringing her total shelter costs to \$549.65 per month. Deducting the \$155 standard allowance and the \$364.57 excess medical deduction from her \$1,319.90 gross income leaves her with \$800.33. Half of this is \$400.16. Her \$549.65 in shelter costs exceed this amount by \$149.49. This is her shelter deduction. Subtracting the three deductions she is allowed—the \$149.49 shelter deduction, the \$155 standard deduction, and the \$364.57 excess medical deduction—from her \$1,319.90 gross income, leaves her with \$650.84 in countable net income. The FoodShare allotment for a one-person household, her household's size, with this income is \$16. *FoodShare Wisconsin Handbook*, § 8.1.2. Because this is the amount the agency determined she is entitled to, I must uphold its decision, even though it initially arrived at this amount using an incorrect medical deduction. (I note that \$16 is the amount received by any eligible person living alone whose income is between \$591 and \$1,606.)

CONCLUSIONS OF LAW

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 2nd day of April, 2015

\sMichael D. O'Brien
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 April 2, 2015.

Rusk County Department of Social Services
Division of Health Care Access and Accountability