



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/164158

PRELIMINARY RECITALS

Pursuant to a petition filed February 20, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Eau Claire County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 24, 2015, at Eau Claire, Wisconsin.

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

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: Becky Arbs

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. The county agency seeks to reduce the petitioner's FoodShare allotment from \$194 to \$184 per month.

3. The petitioner receives \$838.50 in unemployment each month.
4. The petitioner pays \$161 in child support each month.
5. The petitioner pays \$420 per month in rent. He also pays his own utilities.

DISCUSSION

The agency initially reduced the petitioner's FoodShare allotment from \$194 to \$84 per month. However, at the hearing, it determined that he should have received credit for paying his utilities. After the hearing it redetermined his benefits and now contends that his allotment should be \$184 per month. That result is correct. I do not know if he finds this acceptable, so I will review it and explain in this decision how the agency reached that result.

FoodShare benefits depend upon 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). The petitioner's monthly gross income consists of \$838.50 in unemployment benefits. The monthly amount was arrived at by multiplying the \$195 weekly amount by 4.3, the number of weeks in an average year. He is entitled to 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). He is also entitled to a deduction for his \$161 monthly child support payment. *FoodShare Wisconsin Handbook*, § 4.6.5.; 7 CFR § 273.9(d)(5).

Finally, he 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; this means that even if the result reached under the formula is more than \$490, \$490 is the highest deduction one can receive for shelter expenses. *FoodShare Wisconsin Handbook*, § 8.1.3. The petitioner currently pays \$420 a month in rent. Because he pays his own utilities, the \$446 standard utility deduction is added to this, bringing his total shelter costs to \$866 per month. Deducting the \$155 standard allowance and his \$161 child support payment from his \$838.60 gross income leaves him with \$522.50. Half of this is \$261.25. His \$866 in shelter costs exceed this amount by \$605.75. Because this exceeds the \$490 maximum shelter deduction, he is allowed \$490 for this deduction. Subtracting the three deductions he is allowed—the \$490 shelter deduction, the \$155 standard deduction, and the \$161 child support deduction—from his \$838.50 gross income, leaves him with \$32.50 in countable net income. The FoodShare allotment for a one-person household, the size of his household, with this income is \$184. *FoodShare Wisconsin Handbook*, § 8.1.2. Because this is the amount the agency determined he is entitled to, I must uphold its decision.

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 25th day of March, 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 March 25, 2015.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability