



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

[REDACTED]

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 27, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on April 08, 2015. The record was held open post hearing to allow the respondent to submit budget information; that information was timely received.

The issue for determination is whether the respondent correctly reduced petitioner’s FS allotment.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

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

By: Angela Dempewolf  
Outagamie County Department of Human Services  
401 S. Elm Street  
Appleton, WI 54911-5985

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a [REDACTED] disabled (SSI recipient) resident of Outagamie County. He was a one person FS household in January and February, 2015; In January, petitioner received a prorated FS allotment of \$68.00; in February, petitioner received an FS allotment of

[REDACTED]

\$194.00. The January and February allotments were based upon petitioner's report that he had no income.

2. At the end of January, a cross match indicated to the respondent that petitioner had unearned SSI income of \$890.65. As a result, petitioner's March FS benefits were reduced to \$16.00
3. The petitioner reported no rent for January, February, or March, 2015. Commencing April 1, 2015, petitioner will have a rent expense of \$330.00. Petitioner has not identified any dependent care or earned income expenses. His gross countable unearned income was \$890.65 for the month of January, 2015, and \$ in Social Security benefits. The petitioner did not allege that the agency counted his income incorrectly. The agency allowed a Standard Deduction from income in each budget month where income was reported.
4. On February 27, 2015, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the sufficiency of his FS allotment for March, 2015.

### **DISCUSSION**

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FoodShare Wisconsin Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FoodShare Wisconsin Handbook, App. 4.6.7.

In a fair hearing concerning the sufficiency of FS issued, the burden of proof is on the Department to demonstrate that it correctly computed the petitioner's FS allotments, and the petitioner must then rebut this evidence with her own evidence showing the agency was incorrect.

The record demonstrates that the petitioner is not entitled to any dependent care expense or earned income expense deductions, having neither expense. He was granted the proper standard deduction (\$155) for March, 2015. The excess shelter expense deduction was not applicable as petitioner testified that he did not have shelter expenses until April 1, 2015. No medical expense deduction for elderly or disabled FS recipients was noted by the petitioner either. See, FoodShare Wisconsin Handbook, Appendix 4.6.4.1.

In essence, the petitioner asserts that this is unfair because he believes he is in need of more FS assistance than he is receiving at the minimal \$16.00 allotment level. The authority of the Division's administrative law judges is limited to the four corners of the law and program regulations. I do not possess the powers of a court of equity, and thus cannot disregard the FS rules and policy. The agency action must be sustained. The agency correctly determined the petitioner's FS allotment for March, 2015, and his appeal must be dismissed.

### **CONCLUSIONS OF LAW**

That the county agency correctly determined the sufficiency of the petitioner's FS allotment for March 2015 at the \$16.00 level.

THEREFORE, it is

**ORDERED**

That the petitioner for review herein be, and the same hereby 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 23rd day of April, 2015.

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\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 April 23, 2015.

Outagamie County Department of Human Services  
Division of Health Care Access and Accountability