



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redacted case name

DECISION

FOO/164358

PRELIMINARY RECITALS

Pursuant to a petition filed February 27, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 25, 2015, at Black River Falls, 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:

Redacted petitioner name

Respondent:

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

By: Redacted
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redacted) is a resident of Jackson County. She lives alone.
2. The county agency notified the petitioner on January 12, 2015, that her FoodShare allotment would decrease to \$16 per month.

3. The petitioner receives \$1,003 per month in social security.
4. The petitioner pays \$288 per month. She pays for her telephone but not her heat or electricity.

DISCUSSION

The petitioner objects to the county agency reducing her FoodShare allotment from \$33 to \$16 per month. The size of a FoodShare allotment depends 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 lives alone. Her gross income is \$1,003, all from social security and thus considered unearned. 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 other deduction she could be entitled to is shelter deduction. The shelter deduction, unlike others, is the based upon a fairly complex formula rather than actual expenses. It equals the amount that housing costs exceed 50% of the net income remaining after all other deductions are subtracted from gross income. Her monthly housing costs include rent of \$288 and a standard allowance of \$30 for her telephone. This equals \$318. (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 petitioner's income after subtracting her \$155 shelter deduction is \$848. Half of this is \$424. Because this is more than her allowable shelter costs, she does not receive a shelter deduction and her net income remains at \$848.

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. (I note that \$16 is the amount received by any eligible person living alone whose income is between \$591 and \$1,606.) I note that the petitioner used to receive a deduction for her shelter because the state previously determined it in a way more favorable to her. Most Wisconsin FoodShare recipients had been receiving the heat standard allowance, which at \$446 per month is much higher than the \$30 telephone allowance. But Wisconsin no longer gives the heat standard utility allowance to those whose utilities are included in their rent, unless they receive energy assistance. *The Agriculture Act of 2014*, Title IV, § 4006; 7 C.F.R. § 273.9(d)(6)(ii); 7 CFR § 273.9(d)(3), referring to 7 CFR § 271.2. Wisconsin had been granting the utility allowance to those whose utilities were included in their rent by granting them a \$1 annual energy assistance payment, but the current farm bill requires households whose heating costs are included in their rent to receive at least \$20 a year in heating assistance to qualify for utility allowance. Most states that had provided \$1 a month in energy assistance raised this amount \$20, but Wisconsin did not.

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 9th 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 9, 2015.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability