



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/164439

PRELIMINARY RECITALS

Pursuant to a petition filed March 5, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services [“County”] in regard to FoodShare benefits [“FS”], a Hearing was held via telephone on April 8, 2015.

The issue for determination is whether it was correct to reduce petitioner’s monthly FS allotment from \$136.00 to \$16.00 effective March 1, 2015.

There appeared at that time via telephone 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: [REDACTED], ES Supervisor
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County, Wisconsin.

2. Petitioner pays rent but does not pay any utilities except for her telephone which is \$30 per month.
3. By an *About Your Benefits* written notice dated January 21, 2015 the County informed petitioner that her monthly FS allotment would be reduced from \$136.00 to \$16.00 effective March 1, 2015; the reason for the reduction was that petitioner did not have any utility expense.

DISCUSSION

When calculating a monthly FS allotment gross income must be used. 7 C.F.R. §§ 273.9(a)(1) & 273.10(c) (2015); *Foodshare Wisconsin Handbook* ["FWH"] 4.3.2. For purposes of FS *income* includes all income from whatever source both earned and unearned. 7 C.F.R. §§ 273.9(b)(1) & (2) (2015); FWH 4.3.1, 4.3.2. & 4.3.4.

Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction¹; dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction²; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2015); FWH 4.6.1.

When calculating utilities the actual amount paid for utilities is not used; instead, a Standard Utility Allowance ["SUA"] is used. 7 C.F.R. § 273.9(d)(6)(iii) (2015); FWH 4.6.7.3. However, no SUA can be granted for a household that does not have any utility obligation. 7 C.F.R. § 273.9(d)(6)(iii)(C) (2015); FWH 4.6.7.3.7.; *DHS Operations Memo* 14-16, Amended, 4/18/2014.

Previously, petitioner was allowed the SUA when her monthly FS allotment was calculated. However, the rules have now been changed, and, as noted above, no SUA can be granted for a household that does not have any utility obligation. 7 C.F.R. § 273.9(d)(6)(iii)(C) (2015); FWH 4.6.7.3.7.; *DHS Operations Memo* 14-16, Amended, 4/18/2014. Therefore, petitioner can no longer be allowed the SUA. This is what caused petitioner's monthly FS allotment to be reduced from 136.00 to \$16.00 effective March 1, 2015.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to reduce petitioner's monthly FS allotment from \$136.00 to \$16.00 effective March 1, 2015.

¹ The excess medical deduction is only for members of the FS household who are elderly, blind, or disabled. Medical expenses incurred by a member of the FS household who is not elderly, blind, or disabled do not qualify for the excess medical deduction. Further, the excess medical deduction is only for that portion of medical expenses that is in excess of \$35.00 per month. 7 C.F.R. § 273.9(d)(3)intro. (2015); FWH 4.6.4.

² Shelter expenses include rent/mortgage/condo fees, property taxes, utilities (with some limitations), and insurance. 7 C.F.R. § 273.9(d)(6)(ii) (2015); FWH 4.6.7.1. In order for a person to qualify for an excess shelter deduction that person's shelter expenses must be in excess of 50% of their income after all other deductions are allowed. 7 C.F.R. § 273.9(d)(6)(ii) (2015); FWH 4.6.7.1.

THEREFORE, it is

ORDERED

That the petitioner for review herein be and the same is hereby 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 17th day of April, 2015

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 17, 2015.

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