



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/164441

PRELIMINARY RECITALS

Pursuant to a petition filed March 03, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Polk County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on April 15, 2015, at Balsam Lake, 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

Polk County Department of Social Services
100 Polk County Plaza, Suite 50
Balsam Lake, WI 54810

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redact) is a resident of Polk County.
2. The county agency notified the petitioner on February 24, 2015, that his FoodShare allotment would decline from \$185 to \$80 per month on April 1, 2015. At the hearing, it indicated that the correct allotment is \$159 per month.

3. The petitioner earns \$950.73 per month.
4. The petitioner pays \$500 per month for rent. He also pays his own heating costs.

DISCUSSION

The size of a FoodShare allotment is determined by household size and net income. Net income is determined after subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d) from gross income.

The petitioner earns \$950.73 per month. 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 an earned income deduction equal to 20% of his \$950.73 earned income, or \$190.14. *See* 7 CFR § 273.9(d)(2).

Finally, he is entitled to the shelter deduction, which equals the amount that housing costs, including a standard utility allowance currently set at \$450, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. The petitioner's housing costs consist of his \$500 rent plus the \$446 standard utility deduction, or \$946. Because there is a standard utility allowance, his actual utility costs are not considered. Deducting the \$155 standard allowance and the \$290.14 earned income deduction from his \$950.73 gross income, leaves him with \$605.59. Half of this is \$302.79. His \$946 in shelter costs exceed this amount by \$643.21. Usually, this would be his shelter deduction, but the maximum allowed for this deduction is \$490. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. Subtracting all the deductions he is allowed—the \$490 shelter deduction, the \$155 standard deduction, and the \$190.14 earned income deduction—from his \$950.73 gross income leaves him with \$115.59 in countable net income. The FoodShare allotment for a one-person household, the size of the petitioner's, with this income is \$159, the amount the agency now concedes he is entitled to. *FoodShare Wisconsin Handbook*, § 8.1.2.

CONCLUSIONS OF LAW

The county agency incorrectly determined the petitioner's FoodShare allotment because it failed to consider that he paid for his own heating costs.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it grant the \$159 in FoodShare per month retroactive to April 1, 2015, and take all steps necessary to ensure that he receives a supplemental allotment if he has received less than this in April 2014.

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 15th day of April, 2015

\sMichael D. O'Brien
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 15, 2015.

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