



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]

DECISION

FOO/164488

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 09, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on March 25, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner is receiving the correct amount of FoodShare benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Pang Thao-Xiong  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner had been a recipient of FoodShare and W2 benefits.
3. Petitioner's FoodShare issuance history relevant here shows FoodShare allotments in the following amounts in the following months: \$4500 for November 2014, \$0 for December 2014, \$82.00 for January 2015 and \$91.00 from February 1, 2015 forward.
4. Petitioner's W2 issuance history, relevant here, indicates that she received \$608.00 in the months of November and December 2014 and \$20.00 in January 2015.
5. The agency also included \$6.00 of child support per month as unearned income for Petitioner.

6. Petitioner obtained employment that started on November 17, 2014 and notified the agency. She was to earn \$15.11 per hour and expected to work about 70 hours per pay period.
7. The agency determined that Petitioner was not eligible for FoodShare in December 2014 based on her earned and unearned income totaling \$2766.21 (earned income, W-2 and child support). This was later redetermined for the purpose of determining Petitioner's eligibility for transitional FoodShare by removing the W-2 income from the calculation. This would have given Petitioner a FoodShare allotment of \$39.00.
8. Petitioner later reported a shelter expense of \$641 which generated another redetermination of Petitioner's FoodShare. A prorated allotment of \$82.00 was issued, apparently in error for January 2015 and a correct allotment of \$91.00 effective February 2015 and going forward.
9. Petitioner's household size is 3.

### DISCUSSION

Transitional FoodShare benefits extend FoodShare eligibility for 5 months as a person moves from W-2 benefits:

#### 5.1.1.1 TFS Introduction

Transitional FoodShare (TFS) benefits automatically extend FoodShare benefit eligibility for 5 months to food units whose Wisconsin Works ( W-2 ) or Tribal TANF (TT) cash assistance ends as long as:

1. the member was part of an active FS case in the benefit month and the month the last W-2 or TT payment was issued, **and**
2. the member was receiving a W-2 or Tribal TANF payment. This does not include W-2 Trial Job Placements or Transitional Jobs case managed by a W-2 agency.

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*FoodShare Eligibility Handbook (FSH), §5.1.1.1.*

The calculation of the transitional benefit is as follows:

#### 5.1.1.2 TFS Benefit Calculation

The TFS allotment is calculated using the income (less the W2 payment), expenses, and food group size from the month prior to the last W-2 cash payment (benefit determination month). This amount is frozen for the next 5 consecutive months, regardless of the number of months remaining in the most recent certification period for regular FS. A new 12 month certification period will begin when the household reapplies and is eligible for FS at the end of the TFS benefit period.

If a change is reported or becomes known to the agency, the change will acted upon at time of reapplication at the end of the TFS benefit period.

...

*FSH, §5.1.1.2.*

This case is confusing and there have been errors in the determination of Petitioner's FoodShare allotment. Specifically, for the purpose of determining eligibility for transitional FoodShare Petitioner's December 2014 W-2 payment was not subtracted from income resulting in a determination that Petitioner was ineligible for FoodShare when she should have had transitional FoodShare allotment of \$39.00 and a prorated FoodShare allotment was issued for January based on the shelter expense when it should not have taken affect until February (changes reported in one month are effective in the next month, FSH, §6.1.3.3). Nonetheless, in the end, Petitioner has an allotment of \$91.00 instead of a transitional FoodShare allotment of \$39.00.

I will also note that Petitioner stated that she is aware of other cases similar to her own where a person did receive TFS. The details of circumstances of someone else's case are not part of the record here and not something that I can consider, plus the complete circumstances of someone else's situation are not always what we think they are.

In the end, I am going to assume that the \$91.00 is preferable to the \$39.00 and am not ordering any changes; after all of the adjustments Petitioner is receiving a larger FoodShare allotment without the TFS eligibility than she would receive with the TFS eligibility. Petitioner is permitted to choose the larger allotment with a request for recertification. *FSH, §5.1.1.7*. That is effectively what happened here with the reported shelter expense.

**CONCLUSIONS OF LAW**

That the agency correctly determined that Petitioner’s TFS allotment would be \$39.00 per month and that her FoodShare allotment with a shelter expense is \$91.00 per month; Petitioner may receive the larger allotment.

**THEREFORE, it is** **ORDERED**

That this 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 Milwaukee,  
Wisconsin, this 4th day of May, 2015

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\sDavid D. Fleming  
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 May 4, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability