



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/164644

PRELIMINARY RECITALS

Pursuant to a petition filed March 10, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Douglas County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on April 15, 2015, at Superior, 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

Douglas County Department of Human Services
1316 North 14Th Street
Suite 400
Superior, WI 54880

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redact) is a resident of Douglas County.
2. The petitioner receives \$836.78 a month in SSI and SSDI.
3. The petitioner's rent is \$237 a month and includes all of her utilities except her telephone.

4. The county agency notified the petitioner on January 12, 2014, that her FoodShare benefits would fall from \$94 to \$16 per month.

DISCUSSION

The petitioner objects to the county agency reducing her FoodShare allotment from \$94 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 \$836.78, all from SSI and SSDI, and thus considered unearned. She 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).

The other deduction she could be entitled to is shelter deduction. The shelter deduction, unlike others, is 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 \$237 and a standard allowance of \$30 for her telephone. This equals \$267. (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 \$681.78. Half of this is \$340.89. Because this is more than her allowable shelter costs, she does not receive a shelter deduction. Even if her recent rent increase to \$241 was counted and her \$7 increase in income was not, her shelter costs would not exceed her net income, so she would not get a shelter deduction. This means that her net income remains at \$681.78. 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 net income is between \$591 and \$1,606. Because the petitioner's net income would have to fall by over \$90 to change her benefits, the \$7 increase in her income did not affect her benefits. I also note that the state previously determined the shelter deduction 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 allowing 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 the utility allowance. Most states that had provided \$1 a month in energy assistance raised this amount \$20, but Wisconsin did not. If it had, the petitioner would have received more than \$100 in additional FoodShare benefits.

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 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

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The preceding decision was sent to the following parties on April 15, 2015.

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