



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/164655

PRELIMINARY RECITALS

Pursuant to a petition filed March 12, 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 April 09, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the petitioner's monthly FoodShare benefits from \$175 to \$16 effective March 1, 2015.

There appeared at that time and place 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: Pang Thao-Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. There are two people in the petitioner's FoodShare (FS) household. The petitioner and an adult disabled daughter.

3. The petitioner's monthly income for March 2015 is \$2,457.25 consisting of \$1,255 from social security disability, \$385.47 from a pension, and \$816.78 from his daughter's SSI.
4. The petitioner's monthly rent is \$520. He is responsible for all of his utilities.
5. Previously the petitioner did not receiving Social Security Disability. In February the agency learned that in March the petitioner would began receiving monthly Social Security Disability payments in the amount of \$1,255. The petitioner's first social security disability payment was in the last half of March.
6. On February 11, 2015 the agency sent the petitioner a notice stating that effective March 1, 2015 his monthly FS benefits would decrease from \$175 to \$16.
7. On March 16, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 1 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I reviewed the agency's calculations in this case, and the calculations are correct. The calculations are correct. The petitioner agrees with the amount used for his monthly gross income. The petitioner further acknowledges that he began receiving social security disability in the last half of March. Changes reported in one month, go into effect the following month. *FS Wisconsin Handbook*, 6.1.3.6. In this case the agency received a report in February that the petitioner would begin receiving social security disability payments in March. This change was implemented in March, the month following the report. This is correct. The petitioner's monthly FS decreased because his income increased.

CONCLUSIONS OF LAW

The agency properly reduced the petitioner's monthly FS benefits effective March 1, 2015.

THEREFORE, it is

ORDERED

That the petition 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 14th day of April, 2015

\sCorinne Balter
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 14, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability