FH
Redact

# STATE OF WISCONSIN
## Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/165227

## PRELIMINARY RECITALS

Pursuant to a petition filed April 8, 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 29, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly determined the amount of the petitioner's FS allotment for April 2015.

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, HSPC Sr.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:
Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Milwaukee County.
2. The petitioner has an ongoing FS case as a household of one person. Her case was due for an annual review in March 2015, and she completed the same in early April 2015. The parties agree that her only income is $912.77 in gross SSI monthly.

3. On April 9, 2015, the Department issued written notice to the petitioner advising that her FS would be reduced from $165 to $16 effective April 1, 2015. The basis for reduction was a decreased excess shelter expense deduction. Exhibit 5. The petitioner timely appealed.

4. The petitioner has a shelter expense of $360, plus only a telephone utility cost. She does not receive a Wisconsin Home Energy Assistance Program payment. The petitioner does not pay out child support, does not incur a dependent care expense to go to work, and has not documented out of pocket medical expenses exceeding $35 monthly.

## DISCUSSION

The petitioner questions the correctness of the calculation of the FS allotment amount for April 2015, onward. The gross income amount is undisputed. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at www.emhandbooks.wisconsin.gov/fsh/.

In calculating the petitioner's April 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 that the county start with gross, rather than net, income, and allow only a limited number of identified deductions from that 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 case with one to three persons is currently set at $155, per *FS Wisconsin Handbook*, 8.1.3. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly not given here. A Dependent Care Deduction is also taken if the petitioner incurred day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person's allowable medical expenses that exceed $35 per month, and child support paid out garners a deduction. There is no record of the latter three expenses here. 7 C.F.R.§273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R.§273.9(d)(6)(ii). Based on a $360 shelter cost plus the $30 telephone utility standard, the petitioner's shelter costs totaled $390. This did exceed half of the adjusted income ($330.89) by $59.11, so the *excess* shelter cost of $59.11 was deducted in the allotment calculation.

Thus, the April 2014 allotment calculation correctly looked like this:

| | |
|---|---|
| Gross income | $912.77 |
| Minus Earned Inc. Deduction | - 000.00 |
| Minus Excess Medical | -000.00 |
| Minus Dependent Care | -000.00 |
| Minus Standard Deduction | -155.00 |
| Adjusted Income | 661.78 |
| Minus Shelter Deduction | - 59.11 |
| Net Income | 602.67 |

The correct allotment for one person with net income of $602.67 was $16 in April 2015. *FS Wisconsin Handbook*, 8.1.2, p.6.

The petitioner asked for an exception due to her health problems and other living expenses. However, the federal rule limits me to subtracting only the deductions stated above.

## CONCLUSIONS OF LAW

1. The Department correctly determined the petitioner's FS allotment for April 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 Madison,
Wisconsin, this 30th day of April, 2015

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\sNancy J. Gagnon
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 30, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability