



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/165310

PRELIMINARY RECITALS

Pursuant to a petition filed April 10, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Eau Claire County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on May 12, 2015, at Eau Claire, Wisconsin.

The issue for determination is whether the 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

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redact) is a resident of Eau Claire County.
2. The county agency reduced the petitioner's FoodShare allotment from \$194 to \$139 per month after determining that he no longer qualified for the standard utility allowance.

3. The agency has since determined that he does qualify for the allowance and has reinstated his benefits at their previous level.

DISCUSSION

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). Recently, many recipients have had their benefits reduced because they no longer receive a utility allowance if their utilities are included in their rent, but this does not apply if the person receives 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. Although the petitioner receives energy assistance, the county agency reduced his FoodShare allotment as of May 1, 2015. Its worker, Redact, indicated after another hearing she was appearing on that she did not expect this hearing to go forward because the agency had corrected its error by reinstating the petitioner's earlier allotment level and issuing a supplemental benefit to compensate him for the reduction. The petitioner requested that I issue a decision to confirm this, which this decision does.

CONCLUSIONS OF LAW

The petitioner is entitled to a FoodShare allotment of \$194 per month.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this hearing it certify that it has reinstated the petitioner's FoodShare benefits to their previous level of \$194 per month and that it also certify that it has issued a supplemental benefit for May 2015 to compensate him for the reduction.

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 13th day of May, 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 May 13, 2015.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability