



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/165315

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 08, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on April 29, 2015, at West Bend, Wisconsin.

The issue for determination is whether Petitioner's FoodShare allotment has been correctly calculated.

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: Ken Benedum

Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. Petitioner's FoodShare case was subject to review in February 2015 and after it was processed Petitioner's FoodShare allotment was reduced effective April 1, 2015 from \$104.00 to \$16.00.
3. Petitioner's FoodShare household consists of one person.
4. The agency determined that Petitioner's gross FoodShare household income to be \$1383.90 as of January 1, 2015.

5. The FoodShare allotment calculation formula effective April 1, 2015 for Petitioner included the standard deduction of \$155.00. He is also credited with medical expenses in excess of \$35.00 per month – he pays \$104.90 for Medicare Part A&B and has \$9.34 in pharmacy copays. This brings Petitioner’s net adjusted income to \$1149.66. Half of this is \$574.83. Petitioner pays rent of \$375.00 and does pay for heat (a \$446 standard deduction) so has a shelter expense deduction of \$246.17 ( $\$375 + \$446 = \$821$ ; this exceeds half of Petitioner’s net adjusted income by \$246.17).

### **DISCUSSION**

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

The gross income limit for a household of one is \$1946. *FSH, §8.1.1.1.* Petitioner’s gross income is less than this.

If a household passes the gross income test, the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$155 per month for a household of 1-3 persons, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction – the utility expense requires that a household have an actual utility obligation and is a standard deduction based on that obligation (\$446 where a person pays for heat); the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.3 and 8.1.3.*

The reason for the reduction in Petitioner’s FoodShare from his last certification is that he apparently had a larger medical expense deduction in the past though the prior budget was not provided as an Exhibit by the agency. Petitioner does not find the \$16.00 allotment to be sufficient. Nonetheless, in reviewing the current calculation of Petitioner’s FoodShare allotment I do not find any errors in the final allotment determination. Given Petitioner’s income and deductions, the correct monthly FoodShare allotment is \$16.00. *FSH, §8.1.2.*

As a final note, a reported change in income or expenses can affect the FoodShare allotment in the month following the report of the change so if any of Petitioner’s financial circumstances change (as an example – additional medical expenses) he should report the change as soon as possible. *FSH, §6.1.3.3.*

### **CONCLUSIONS OF LAW**

That the available evidence is sufficient to demonstrate that the agency correctly calculated Petitioner’s FoodShare at \$16.00.

**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 5th 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 5, 2015.

Washington County Department of Social Services  
Division of Health Care Access and Accountability