



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/165547

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 21, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on May 07, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits.

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: Karen Mayer

Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On April 13, 2015, the agency issued a Notice of Decision informing the Petitioner that his FS benefits would decrease from \$90/month to \$16/month.
3. Petitioner has Social Security income of \$1,755/month. Allowable expenses include shelter expenses of \$1255.45 and utility expenses.

4. On April 21, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month for a one-person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FSH, § 4.6.7.

The Petitioner had previously disputed the agency's calculation of his shelter expenses. The agency concedes it had failed to include all of the Petitioner's mortgage costs in calculating benefits. Prior to the hearing, the agency re-calculated benefits with revised shelter costs but determined the Petitioner was still only eligible for \$16/month. The Petitioner is over the income limit for a one-person household but he is elderly so he is categorically eligible.

The Petitioner testified at the hearing that he had believed the agency gave a dollar-to-dollar credit for shelter expenses. The agency representative explained how the agency calculates the shelter deduction which is based on a percentage of the shelter and utility expenses.

I reviewed the FS budget screen to determine if the agency properly calculated the benefits. I note that the agency properly budgeted SS income of \$1,755/month. The agency applied the standard deduction of \$155 for an adjusted gross income of \$1,600. The agency then budgeted \$1,255.45 for shelter costs (mortgage, taxes, insurance) and a utility standard of \$446 for total shelter and utility costs of \$1,701.45/month. The agency calculated a deduction of \$901.45 which is the excess expense over 50% of net income ( $\$1600 \times 50\% = \$800$ ;  $\$1701.45 - \$800 = \$901.45$ ). The agency applied this deduction for a net income of \$698.55 ( $\$1600 - 901.45$ ).

The maximum FS allotment for a one-person household is \$194/month. The agency must determine the allotment by subtracting 30% of net income from the maximum allotment. In this case, 30% of the Petitioner's net income is \$209.70. Because 30% of net income exceeds the maximum allotment of \$194, the Petitioner is only eligible for \$16/month.

### CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits.

**THEREFORE, it is**

**ORDERED**

That 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 Milwaukee,  
Wisconsin, this 11th day of June, 2015

---

\sDebra Bursinger  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 11, 2015.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability