



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOO/166091

PRELIMINARY RECITALS

Pursuant to a petition filed May 16, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washburn County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on June 15, 2015, at Shell Lake, Wisconsin.

The issue for determination is whether the county 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
Washburn County Department of Social Services
110 W 4th Avenue
PO Box 250
Shell Lake, WI 54871

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # Redact) is a resident of Washburn County.
2. The petitioner receives \$604 in social security each month. She has no other income.
3. The petitioner pays \$120 for rent each month. She pays for her telephone but no other utilities.

4. The county agency set the petitioner's FoodShare allotment at \$59 per month. It then reduced this by \$10 per month to recover a prior overpayment of FoodShare.

DISCUSSION

FoodShare benefits depend upon a household's size and its net income. The county agency relied upon an incorrect determination of the petitioner's social security income when setting her FoodShare allotment. It corrected this, but the petitioner filed an appeal anyway.

Net income is determined after subtracting from gross income those deductions—and only those deductions—found in 7 CFR § 273.9(d). The petitioner lives alone. Her gross income is \$604, all from social security, and thus considered unearned. She is entitled to the \$155 standard deduction allowed for households with up to three members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1).

The other deduction she could be entitled to is the shelter deduction. This deduction, unlike others, is the based upon a fairly complex formula rather than actual expenses. It equals the amount that housing costs exceed 50% of the net income remaining after all other deductions are subtracted from gross income. The petitioner's monthly housing costs include rent of \$120 and a standard allowance of \$30 for her telephone. This equals \$150. (Because there is a standard utility allowance, actual utility costs are not considered.) *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. Her income after subtracting her \$155 standard deduction is \$449. Half of this is \$224.50. Because her housing costs are less than this, she does not get a shelter deduction, and her net income remains at \$449. The FoodShare allotment for a one-person household, her household's size, with this income is \$59. *FoodShare Wisconsin Handbook*, § 8.1.2. Because this is the amount the agency determined she is entitled to, I must uphold its decision.

I note that the \$59 allotment has been reduced to \$49 to recover a previous overpayment. The petitioner did not challenge this.

CONCLUSIONS OF LAW

The county agency correctly determined the petitioner's FoodShare allotment.

THEREFORE, it is

ORDERED

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 Madison,
Wisconsin, this 25th day of June, 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 June 25, 2015.

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