



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/166120

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 18, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 11, 2015, at Sheboygan, Wisconsin.

The issue for determination is whether the agency correctly terminated the petitioner's monthly FS benefits effective May 1, 2015.

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: Mitch Birkey

Sheboygan County Department of Human Services  
3620 Wilgus Ave  
Sheboygan, WI 53081

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Sheboygan County. The petitioner is a four person household consisting of himself, his girlfriend, and their twin children.

2. On March 26, 2015 the petitioner completed a renewal for his FoodShare (FS) benefits. During the renewal the petitioner reported that his girlfriend works full time for [REDACTED]. The petitioner and his girlfriend live together with their twins.
3. The monthly household gross income is \$4,372.00. They pay \$650 in rent, and are responsible for all of the utilities.
4. On April 9, 2015 the agency sent the petitioner a notice stating that effective May 1, 2015 his monthly FS benefits would terminate.
5. On May 21, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

### DISCUSSION

In calculating the petitioner's FS 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 the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted 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 household size of 4 is \$165, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I reviewed the agency's calculations in this case, and the calculations are correct. The petitioner states that his girlfriend's income is not enough income for their family. He highlighted that she has many deductions from her gross income. He states that his only contribution to the family was his monthly FS benefits. He believed that given the family's situation, he should continue to receive those benefits. As an ALJ I have no equitable powers. Rather, the Division of Hearings and Appeals like any administrative agency, "has only those powers which are expressly conferred or can be fairly implied from the statutes under which it operates." *Oneida County v. Converse*, 180 Wis.2d 120, 125, 508 N.W.2d 416 (1993). In this case my role is to review the agency's calculations to determine if those calculations are correct. The petitioner does not dispute the FS calculations. Nonetheless I have reviewed the calculations, and the termination of the household FS benefits effective May 1, 2015 is correct.

### CONCLUSIONS OF LAW

The agency correctly terminated the petitioner's monthly FS benefits effective May 1, 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 Milwaukee,  
Wisconsin, this 11th day of June, 2015

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\sCorinne Balter  
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 11, 2015.

Sheboygan County Department of Human Services  
Division of Health Care Access and Accountability