



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/166231

PRELIMINARY RECITALS

Pursuant to a petition filed May 26, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the [REDACTED] Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on July 07, 2015, at West Bend, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits for June and July, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Ken Benedum

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

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of [REDACTED]

2. On May 5, 2015, the Petitioner completed a FS renewal. Petitioner reported he is a household of one. He receives SSDI of \$1309/month. He works one hour/month for [REDACTED] at \$7.25/hour. He has a rent expense of \$406. He pays an electric bill.
3. Petitioner provided medical expenses at the time of the renewal. Outstanding bills totaled \$450.03. The agency budgeted this entire expense for June, 2014. One bill for [REDACTED] in the amount of \$113.48 for service on November 10, 2014 was used in determining the Petitioner's FS allotment in the prior certification period.
4. On May 8, 2015, the agency issued a Notice of Decision to the Petitioner informing him that effective June 1, 2015, his monthly FS benefit would be reduced to \$19.
5. On May 26, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.
6. On June 1, 2015, the agency issued a Notice of Decision to the Petitioner informing him that for June, 2015, he would receive FS benefits of \$194 and effective July 1, 2015, his monthly FS benefit would be reduced to \$16.
7. On June 8, 2015, the agency issued a Notice of Decision to the Petitioner informing him that effective July 1, 2015, his monthly FS benefit would be \$127. The agency determined a previously allowed medical expense of \$269.17 was incorrectly ended. This expense had been ordered to be allowed in a previous appeal for the period of December 1, 2015 – November 30, 2015 (see FOO/161565). The agency further determined that a phone utility expense should have been considered for the Petitioner.
8. On July 7, 2015 the Petitioner submitted additional medical expenses to the agency.
9. On July 8, 2015, the agency issued a Notice of Decision to the Petitioner informing him that for July 1 – 30, 2015, he would receive FS benefits of \$129. This was based on medical expenses of \$566.29.

### 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 a member over age 60. 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.

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.

In this case, the Petitioner asserts that the agency did not consider all of his medical expenses. The agency conceded that it had not correctly determined the medical expense deduction when it made its FS determinations on May 8 and June 1, 2015. It made a new determination on June 8, 2015 based on additional medical expenses of \$269.17/month that it is required to include based on a previous FS appeal (DHA Case No. FOO/161565).

The rules governing the use of medical expenses are found in FSH §4.6.4.1 which states that medical expenses are allowable when:

1. They are previously acquired before the current certification period AND not yet paid, or
2. They are acquired during the current certification period, or
3. They are current payments, made during the current certification period.
4. They have not been previously allowed as a Food Share Deduction.

“One time medical expenses (i.e. hospital bills) can be budgeted for one month or averaged over the remaining certification period.” FSH §4.6.4.1.

“Medical expenses paid prior to the certification period are not allowable.” (Id.)

In this case, the agency made a one-time allowance of \$450.03 for June, 2014 based on medical expenses the Petitioner submitted that are outstanding, were acquired during the current certification period and have not been previously allowed as a deduction. The agency revised the allowance to add the \$269.17/month it is required to allow per Case FOO/161565. The agency also revised the allotment by adding an additional utility deduction for the Petitioner’s phone expense.

I reviewed the agency budget screens for June and July, 2014. Based on the medical expenses submitted by the Petitioner, I conclude the agency properly considered one-time medical expenses of \$450.03 for June, 2014 the following medical bills:

	DOS: 1/09/2015	\$ 70.38
	DOS: 1/25/2015	\$258.38
	DOS: 2/10/2015	\$ 45.00
	DOS: 3/12/2015	\$ 15.00
	DOS: 1/23/2015	\$ 61.27

Thus, I conclude the agency properly allowed total medical expenses of \$719.20 for June, 2014 and properly determined the Petitioner’s FS benefits for June, 2014.

For July, 2014, the Petitioner submitted additional medical expenses totaling \$297.12 to the agency which included the following medical bills:

	DOS: 11/17/2014	\$ 4.97
	DOS: 05/14/2015	\$ 25.45
	DOS: 12/12/2015	\$ 17.70
	DOS: 12/04/2014	\$ 14.09
	DOS: 11/17/2014	\$ 9.90
	DOS: 01/23/2015	\$ 33.14
	DOS: 01/23/2015	\$ 14.55
	DOS: 01/23/2015	\$ 50.13
	DOS: 01/15/2015	\$ 82.19

With the additional \$269.17/month, the agency allowed a total of \$566.29 in medical expenses for July, 2014. I conclude that the agency properly determined the Petitioner’s medical expenses and FS benefits for July, 2014.

**CONCLUSIONS OF LAW**

The agency properly determined the Petitioner's FS benefits for June, 2014 to be \$194 and properly determined Petitioner's FS benefits for July, 2014 to be \$127.

**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 21st day of July, 2015

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\sDebra Bursinger  
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 July 21, 2015.

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