



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/166413

PRELIMINARY RECITALS

Pursuant to a petition filed June 04, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 24, 2015, at Appleton, Wisconsin.

The issue for determination is whether the agency correctly calculated the petitioner's FoodShare (FS) benefits effective June 1, 2015.

The petitioner requested a hearing on two files. A hearing on both files was scheduled for June 24, 2015. The petitioner submitted a voluntary withdrawal of his hearing request. He listed on this case number on his voluntary withdrawal. I called the petitioner on June 24, 2015 to see if he wished to withdraw his appeal on one file or both file in order to determine whether or not to set another hearing. I understood that the petitioner wanted a hearing on his other file, and that he wished to withdraw his appeal on this file. The petitioner understood me to be setting a new hearing on both files. I am treating the June 24, 2015 phone call as a rehearing request. At the hearing on the other file, appeal number 166288, the agency thoroughly addressed the calculation of the petitioner's FS benefits effective June 1, 2015. This decision addresses that issue.

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: Vicki Schrimpf

Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:
Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. On June 3, 2015 the agency sent the petitioner a notice stating that effective June 1, 2015 he would receive \$120 in monthly FS benefits.
3. The petitioner's monthly gross income is \$752.00 in social security disability. He pays \$650.00 in rent. His utilities are included in his rent.
4. On June 4, 2015 the Division of Hearings and Appeal 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 1 is \$155, 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 did not understand why he would have received more FS benefits in the past. I note that prior to the 2014 Farm Bill the Wisconsin Department of Administration (DOA) issued an annual energy assistance payment of \$1 to all FS households who were not already receiving energy assistance. *Id.* This allowed Wisconsin to grant all FS households the Heating Standard Utility Allowance (HSUA) of \$446. *Id.* The actual utility usage did not matter. *Id.*

The 2014 Farm Bill changed Wisconsin's practice of allowing all FS households to take the maximum utility allowance. *Id.* The 2014 Farm Bill requires a household to have received a WHEAP or energy assistance payment of greater than \$20 to receive the HSUA of \$446. 7 U.S.C. 2014(e)(6)(C)(ii)(I). Therefore, "households that have not received WHEAP will receive the appropriate utility standard based on the utility obligation(s) incurred by the household." *DHS Operations Memo 14-16 Amended*. In this case Petitioner did not receive WHEAP and did not have any utility obligations, therefore he does not qualify for a utility deduction.

Because the petitioner's utilities are included in his rent, the 2014 farm bill would have impacted his shelter deduction. Previously he had an additional credit, which he is no longer entitled to. The petitioner agrees that the agency correctly stated his monthly gross income and his rent costs. He further agrees that his utilities are included in his rent. As a practical the agency calculates the petitioner's monthly FS benefits by plugging that information into a computer program. Nonetheless, my manual review of the calculations shows that the calculations are correct.

CONCLUSIONS OF LAW

The agency correctly calculated the petitioner's FoodShare (FS) benefits effective June 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 24th day of July, 2015

\sCorinne Balter
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 24, 2015.

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