



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/166441

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 04, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to FoodShare benefits (FS), a hearing was held on June 23, 2015, at Waukesha, Wisconsin.

The issue for determination is whether the agency correctly determined the petitioner's monthly FS benefits effective June 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: Kathleen Jones

Waukesha County Health and Human Services  
514 Riverview Avenue  
Waukesha, WI 53188

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. The petitioner is a household of two consisting of herself and her 18-year-old son.

3. The monthly household income for June 2015 is \$1,948.45. This consists of the petitioner's son's earned income of \$1,131.67 and the petitioner's monthly social security payment of \$816.78.
4. The petitioner's pays \$825 in monthly rent. She also receives energy assistance.
5. On April 24, 2015 the petitioner completed a phone interview. In May 2015 the petitioner provided verification of her son's income.
6. On May 11, 2015 the agency mailed the petitioner a notice stating that effective June 1, 2015 her monthly FS benefits were \$33.
7. On June 1, 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 2 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 argues that her son's income should not be included in the monthly household gross income. She explained in significant detail the numerous problems that she has had with her son. She testified that her son has gotten in trouble, has gotten her in trouble, and that his income goes toward paying the thousands of dollars of fines that he has accumulated. I have no reason to doubt the petitioner's testimony. However, the FS regulations state that a biological child under the age of 22 must be included in the parent's household regardless of whether they make and prepare meals together. *FS Wisconsin Handbook*, 3.3.1. In this case the petitioner's son is 18 years old. As long as he lives in the petitioner's home, he must be included in her household and food group. Therefore, the agency must include his income when calculating the household's monthly FS benefits.

### CONCLUSIONS OF LAW

The agency properly calculated the petitioner's monthly 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 26th 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 26, 2015.

Waukesha County Health and Human Services  
Division of Health Care Access and Accountability