



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redacted case name

DECISION

FOO/166460

PRELIMINARY RECITALS

Pursuant to a petition filed June 05, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to FoodShare benefits (FS), a hearing was held on June 25, 2015, at Green Bay, Wisconsin.

The issue for determination is whether the agency correctly calculated the amount of the petitioner's FS for April 2015 forward.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redacted petitioner name

Respondent:

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

By: Redacted, ES Spec.
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redacted) is a resident of Brown County.

2. The petitioner has had an open FS case as a household of two persons (self and child) since at least February 2015. FS benefits for March 2015 were \$279, and were based on gross household income of \$836.78.
3. By March, the agency learned that the household's income had increased. Specifically, the petitioner began receiving a \$250 Caretaker Supplement (CTS) benefit for her minor child. Thus, total household income became \$1,086.78 (\$836.78 + \$250), all of it unearned.
4. On March 17, 2015, the Department issued written notice to the petitioner advising that her FS would be reduced from \$279 to \$167, effective April 1, 2015. The basis for reduction was increased income.
5. In calculating the petitioner's benefit, the Department used correct gross income of \$1,086.78, considered rent of \$445, and applied a \$321.00 limited (non-heat) utility standard.

### DISCUSSION

The petitioner questions the correctness of the calculation of the FS allotment amount for April 2014, onward. The gross income was not in dispute. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at [www.emhandbooks.wisconsin.gov/fsh/](http://www.emhandbooks.wisconsin.gov/fsh/). 7 C.F.R. §273.10(c)(2).

The petitioner did question why all or any portion of her CTS payment from the state is counted as income. She is correct that it is a benefit to help support her child, and views the FS program's inclusion of it as income as counter-productive to the CTS program's purpose. Nonetheless, state policy and federal rules require inclusion of all of the CTS benefit as income in the FS calculation:

#### **4.3.4.1 Unearned Income Introduction**

Unearned income is income not gained by work or delivery of a service or product. Count all unearned income unless it must be disregarded. Some unearned income is disregarded because of source, type, or the reason for receiving it.

...

#### **4.3.4.2 Counted Unearned Income**

...

10. Caretaker Supplement for Children (CTS; C-Supp ) payments
11. Child Support (CS ) and maintenance payments ...

*FSWH*, § 4.2.3.1 - .2. See also, 7 C.F.R. § 273.9(b)(2).

In calculating the petitioner's April 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 that the county start with gross, rather than net, income, and allow only a limited number of identified deductions from that 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 case with one to three persons is currently set at \$155, per *FS Wisconsin Handbook*, 8.1.3. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly not given here. A Dependent Care Deduction is also taken if the petitioner incurred day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person's allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. There is no record of the latter three expenses here. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half

of that income. 7 C.F.R. §273.9(d)(6)(ii). Based on a \$445 rent/shelter cost plus the \$321 limited utility standard, the petitioner’s shelter costs totaled \$766.00. This did exceed half of the adjusted income (1/2 = \$465.89), so the excess shelter cost of \$300.11 was deducted in the allotment calculation.

Thus, the April 201 allotment calculation correctly looked like this:

Gross income	1086.78
Minus Earned Inc. Deduction	- 000.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-155.00</u>
Adjusted Income	931.78
Minus Shelter Deduction	<u>-300.11</u>
Net Income	631.78

The correct allotment for two persons with net income of \$631.78 was \$167 in April 2015. *FS Wisconsin Handbook*, 8.1.2, p.6.

**CONCLUSIONS OF LAW**

1. The Department correctly determined the petitioner’s FS allotment for April 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 Madison,  
Wisconsin, this 26th day of June, 2015

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\sNancy J. Gagnon  
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.

Brown County Human Services  
Division of Health Care Access and Accountability