



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/167001

PRELIMINARY RECITALS

Pursuant to a petition filed June 30, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on July 21, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the Kenosha County Human Service Department (the agency) correctly calculated the Petitioner's FoodShare allotment effective July 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: Karen Mayer, Fair Hearing Coordinator
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On June 8, 2015, the agency sent the Petitioner a notice, indicating that her FoodShare benefits would be decreased from \$357.00 to \$16.00 per month, effective July 1, 2015.

3. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on June 30, 2015. (Exhibit 1)
4. The Petitioner's sole source of income is from unemployment insurance benefits, in the amount of \$353.00 per week. This works out to be \$1517.90 per month (\$353 x 4.3 average weeks per month). (Exhibit 4; Testimony of Petitioner)
5. Petitioner's household consists of two people; no one is over age 60, blind or disabled. (Testimony of Petitioner)
6. Petitioner pays no rent, but pays an electrical expense. (Testimony of Petitioner)

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.*

Once a household passes the gross income test the following deductions are applied in determining the FoodShare allotment. (*FSH, at § 4.6*):

- (1) a standard deduction –

This \$155 per month for a household of 1-3 people. *7 CFR § 273.9(d)(1)*:

- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5)*.

The standard utility allowances are as follows:

| | |
|---|-------|
| HSUA – Heating Standard Utility Allowance | \$446 |
| LUA – Limited Utility Allowance | \$321 |
| EUA – Electric Utility Allowance | \$161 |
| WUA-Water and Sewer Utility Allowance | \$74 |
| FUA- Cooking Fuel Allowance | \$37 |
| PUA- Phone Utility Allowance | \$30 |
| TUA – Garbage and Trash Utility Allowance | \$19 |

There is a cap of \$490.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

The term ‘disabled’ is a term with a definition as to the FoodShare program:

3.8.1.1 EBD Introduction

An elderly individual is a food unit member age 60 or older.

A disabled individual is a food unit member who receives disability or blindness benefits from any of these programs: [SSA](#), [MA](#), [SSI](#) or SSI related MA, Railroad Retirement Board ([RRB](#)).

FSH, §3.8.1.1.

Petitioner was receiving \$353.00 per week in unemployment insurance benefits. 7 C.F.R. 273.10(c)(2) requires income to be prorated using a 4.3 week month. Thus, Petitioner’s monthly income is calculated as follows:

$$\text{\$353 per week} \times 4.3 \text{ average weeks per month} = \text{\$1517.90 average monthly income}$$

Applying the applicable deductions to Petitioner’s income we have the following allotment calculation:

| | | | |
|------------------------------------|-----------|------------------------|-----------|
| Gross Income | \$1517.90 | Rent | \$00.00 |
| No Earned Income Deduction | | EUA | \$161.00 |
| Standard Deduction | -\$155.00 | 50% Net income | -\$681.45 |
| No Medical Expenses exceeding \$35 | | | |
| No Dependent Care Expenses | | Excess Shelter Expense | \$0 |
| <hr/> | | | |
| Net Income | \$1362.90 | | |
| Excess Shelter Expense | - 0 | | |
| <hr/> | | | |
| Net Income | \$1362.90 | | |

Individuals, in a household of two, with a net income of \$1362.90 qualify for a FoodShare allotment of \$16.00 per month. *FSH §8.1.2.*

CONCLUSIONS OF LAW

The agency correctly calculated the Petitioner’s FoodShare allotment effective July 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 22nd day of July, 2015.

\sMayumi M. Ishii
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 22, 2015.

Kenosha County Human Service Department
Division of Health Care Access and Accountability