



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/168310

PRELIMINARY RECITALS

Pursuant to a petition filed August 31, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on September 22, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly determine the Petitioner's FoodShare allotment, effective September 1, 2015.

NOTE: The record was held open to give the Petitioner an opportunity to provide additional documentation concerning her income. The Petitioner sent an e-mail with an attachment containing three paystubs and photos of her work schedule. The e-mail has been marked as Exhibit 3 and entered into the record. It should be noted, however, that the photos of the work schedule are too blurry to read.

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: Simone Johnson, Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On August 6, 2015, the Petitioner called the agency to complete her renewal. (Exhibit 2, pg. 7)
3. The Petitioner has household size of one person; she pays rent in the amount of \$233 which includes heat and electricity. The Petitioner does pay for a phone utility. (Testimony of Petitioner)
4. Petitioner is neither elderly (over age 60), blind or disabled. (Testimony of Petitioner)
5. On August 14, 2015, the Petitioner provided her paystubs as verification of her employment. (Exhibit 2, pgs. 11 -14; testimony of Ms. Johnson; Exhibit 3)
6. On August 20, 2015, the agency sent the Petitioner a notice, advising her that as of September 1, 2015, she would receive \$16.00 per month in FoodShare benefits. (Exhibit 21)

DISCUSSION

In order to receive FoodShare benefits, individuals must pass both gross and net income limits.

Eligibility and benefit calculations are based on prospectively budgeted monthly income using estimated amounts. *FSH §4.1.1* “Only include income actually available to the group.” *Id.*

The agency based its calculations upon the paystubs in Exhibit 2, pages 11-14. Regrettably, they are not legible.

The Petitioner disagrees with the agency’s calculation of her income, asserting that it fluctuates. Petitioner provided copies of three bi-weekly paystubs in Exhibit 3 to support her claim; one dated August 13, 2015, showing gross income of \$363.98; one dated August 27, 2015, showing gross income of \$485.31 and one dated September 10, 2015 showing gross income of \$527.51. This is the best information available in the record, so this is what the income determination will be based upon.

Averaging Petitioner’s paychecks to estimate her income we have the following calculation:

$$\$363.98 + \$485.31 + \$527.51 = \$1376.80$$

$$\$1376.81 / 3 \text{ checks} = \$458.93 \text{ average income per paycheck}$$

$$\$448.94 \times 2.15 \text{ average bi-weekly pay periods per month} = \$986.70 \text{ average income per month.}$$

Once gross income is determined, the following deductions are applied in determining the household’s net income:

- (1) a standard deduction –

This is \$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)*;

For Petitioner this works out to be \$197.34 ($\$986.70 \times .20$)

- (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	\$458
LUA – Limited Utility Allowance	\$293
EUA – Electric Utility Allowance	\$119
WUA-Water and Sewer Utility Allowance	\$78
FUA- Cooking Fuel Allowance	\$46
PUA- Phone Utility Allowance	\$30
TUA – Garbage and Trash Utility Allowance	\$20

There is a cap of \$504.00 on the shelter cost deduction, *unless* a household has an elderly, blind or disabled member.

FSH, §§ 4.6.7.1 and 8.1.3.

Applying the applicable deductions to Petitioner’s income we have the following net income calculation, effective July 1, 2015:

Gross Income	\$986.70	Rent	\$233.00
Earned Income Deduction	-\$197.34		
Standard Deduction	-\$155.00		
No Medical Expenses exceeding \$35		PUA	+\$30.00
No Dependent Care Expenses		-50% net income	-\$317.18
		<u>before shelter deduction</u>	
Net Income before shelter deduction	\$634.36	Excess Shelter Expense:	\$00.00
Excess Shelter Expense	- \$00.00		
<hr/>			
Net Income	\$634.36		

One person households with net income of \$634.36 are entitled to \$16.00 per month in benefits. *FSH §8.1.2*

CONCLUSIONS OF LAW

The agency correctly determined the Petitioner’s FoodShare allotment for September 1, 2015, going forward.

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 20th day of October, 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 October 20, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability