



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/168645

**PRELIMINARY RECITALS**

Pursuant to a petition filed September 14, 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 October 07, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner’s FoodShare allotment has been correctly calculated.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Belinda Brown  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner filed this appeal to question a reduction of her FoodShare allotment. It was reduced from \$375.00 for August 2015 to \$28.00 for September 2015.
3. Petitioner applied for child care in August 2015 and reported two employers. She worked 35.12 hours per pay period at \$8.25 per hour for one employer and 20 hours per pay period for the other

at \$9.00 per hour. She also had a W-2 check in the amount of \$608.00 and it was reported that her son received a SSI payment of \$816.78. Thus the agency determined gross income to be \$2434.72.

4. Petitioner was able to demonstrate to the agency that she was not the payee for her son's SSI; rather it went to the State as he had been placed out of the home in foster care for a period of time. The family was reunified as of mid-summer 2015. She was expected to become the payee as of October 2015.
5. In September 2015 Petitioner reported that she would have a rent expense of \$1000.00 per month as of October 2015.
6. The agency used the following deduction in determining Petitioner's FoodShare allotment - a standard deduction of \$165.00 and an earned income deduction of 20%.
7. Petitioner's FoodShare household consists of herself and 3 children. Her husband is in the home but was not on the FoodShare case as citizenship had not been confirmed.

### **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 an elderly blind or disabled member. *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.*

The gross income limit for a household of 4 was \$3976 for September 2015. *FSH, §8.1.1.1, Release 14-03.* Petitioner's gross income is less than this.

If a household passes the gross income test, the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$165 per month for a household of 4 persons, *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 utility expense requires that a household have an actual utility obligation and is a standard deduction based on that obligation (e.g., \$30 where it is phone only); the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.3 and 8.1.3.*

It must also be noted that changes in income and expenses and that a change reported in one month cannot affect benefits until the next month. *FSH, §6.1.3.3.*

In reviewing the calculation of Petitioner's FoodShare allotment, I do find one error – the inclusion of Petitioner's son's SSI for the month of September 2015. Petitioner had not reported it because she did not receive it at the time and this was confirmed by her case worker. This is the only error that I see.

### **CONCLUSIONS OF LAW**

That the available evidence indicates that the SSI payment for one of Petitioner's children was incorrectly included in the calculation of Petitioner's FoodShare allotment for the month of September 2015.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the agency with instructions to redetermine Petitioner's FoodShare allotment for the month of September 2015 and to remove her son's SSI payment from the allotment calculation formula for that month. Any supplemental benefits must be issued within 10 days of the date of this Decision.

In all other respects, this appeal 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 3rd day of November, 2015

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\sDavid D. Fleming  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 3, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability