



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/168965

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 22, 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 21, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly calculated the petitioner's monthly FS allotment effective October 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: Belinda Brown

Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. His household size is two.
2. On December 18, 2014 the agency sent the petitioner a notice stating that effective January 1, 2015 his monthly FoodShare (FS) benefits would decrease from \$344 to \$155.

3. The petitioner filed an appeal contesting the reduction. The appeal number was 165283. That appeal was scheduled for a hearing. The petitioner failed to appear for the hearing, and the appeal was dismissed based upon his non-appearance.
4. On September 8, 2015 the agency sent the petitioner a notice stating that effective October 1, 2015 his monthly FoodShare (FS) benefits would increase from \$155 to \$159.
5. The petitioner's household's monthly gross income is \$1,910.80. They are responsible for mortgage and taxes in the amount of \$1,250.00. They also pay all of the utilities.
6. On September 25, 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).

Following these rules the agency correctly calculated the petitioner's monthly FS benefits effective October 1, 2015. I further note that the agency properly calculated the petitioner's FS benefits previously. This issue was not before me as I did not have jurisdiction given that the petitioner did not appear for his previous appeal. However, in my review of the calculations, I note that those calculations were also correct. At the hearing the petitioner had questions regarding his medical expenses. The agency deducted the petitioner's Medicare premiums. No other medical expenses had been reported to the agency. The petitioner stated that he has additional medical expenses, however he did not present any verification of these expenses. He had not informed the agency of these expenses prior to the hearing. When the petitioner submits verification showing additional medical expenses to the agency, the agency will deduct those expenses in the FS calculation. These changes will go into effect the month following the report. At this point in time the agency properly calculated the petitioner's monthly FS benefits.

The petitioner's other argument is that he does not have enough money, and that the agency should use his net not his gross income. The federal FS regulations require the agency to use gross, not net income. Thus, the agency properly calculated the petitioner's monthly FS benefits.

### **CONCLUSIONS OF LAW**

The agency correctly calculated the petitioner's monthly FS allotment effective October 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 October, 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 October 26, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability