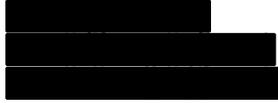




STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/169878

PRELIMINARY RECITALS

Pursuant to a petition filed November 03, 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 December 10, 2015, at Milwaukee, Wisconsin.

The record remained open until the end of the day on December 10, 2015 for the agency to submit the corrected monthly FS budget.

The issue for determination is whether the agency correctly calculated the petitioner's monthly FoodShare (FS) benefits in the amount of \$70 effective December 1, 2015.

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: Pang Thao-Xiong  
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. He is the only person in his household. He is an elderly, blind, or disabled household who is receiving medical and case management services through the Family Care Program.
2. On October 29, 2015 the petitioner completed a renewal of his FS benefits. The agency reduced the petitioner's medical remedial expenses for the new certification period.
3. The petitioner's monthly gross income is \$1,356.30 from social security disability. His monthly rent amount is \$745.00. He is responsible for his electric plus another utility.
4. The petitioner's monthly medical expenses are \$269.30. This consists of \$104.90 for a Medicare Part B premium, \$7.30 for a Medicare Part D premium, a \$25 cost share payment for the Family Care Program, and \$132 in medical remedial expenses.
5. On October 30, 2015 the agency sent the petitioner a notice stating that effective December 1, 2015 his monthly FS benefits would decrease from \$194 to \$47. This decrease was due to a decrease in the petitioner's medical expenses.
6. On November 5, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.
7. Shortly before the hearing the agency learned from the petitioner's Family Care worker that the petitioner had additional expenses. At the hearing the agency recalculated the petitioner's monthly FS benefits using Family Care's reported medical expenses. Following the hearing, the record remained open for the corrected budget. During this open record period, the agency spoke to the petitioner's family care worker who clarified the petitioner's monthly medical expenses. The agency learned that they had double counted the petitioner's monthly Medicare premiums. The agency corrected the budget, and submitted this corrected budget during the open record period. This correct budget showed that the petitioner's monthly FS benefits are \$70 effective December 1, 2015.

### 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 1 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).

I have reviewed the agency's calculations at length. The agency properly followed the FS rules and regulations when they calculated that the petitioner's monthly FS benefits were \$70 effective December 1, 2015. The petitioner's benefits were reduced from his previous certification period because his medical expenses were reduced. If the petitioner's medical expenses increase, he may report that increase to the agency, and those changes will go into effect the month following his report. I further note that prior to the fair hearing, the agency determined that they were not giving the petitioner proper credit for all of his medical expenses. This increased his FS benefits from \$47 to \$70 per month. Given the figures reported, this new calculation is correct.

**CONCLUSIONS OF LAW**

The agency correctly calculated the petitioner's monthly FoodShare (FS) benefits in the amount of \$70 effective December 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 18th day of December, 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 December 18, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability