



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/171844

PRELIMINARY RECITALS

Pursuant to a petition filed February 04, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Columbia County Health & Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on March 17, 2016.

The issue for determination is whether the respondent correctly determined petitioner's FS benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

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

By: [REDACTED]

Columbia County Health & Human Services
2652 Murphy Rd
PO Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County. She is a household of one.
2. On September 18, 2015, the petitioner applied for FS benefits. She was found eligible and received \$15.00 in FS benefits.

3. In October, 2015, respondent updated petitioner's FS budget to include child support payments that petitioner was making. This resulted in an increase in petitioner's FS allotment to \$103.00 for the months of October, November, and December, 2015.
4. In December, petitioner contacted respondent to report that she was no longer paying child support. When that payment was removed from her FS budget, her allotment was reduced to \$16.00 per month commencing January, 2016.
5. The petitioner's monthly gross unearned income is \$1,332. Her monthly rent is \$513 and she is responsible for paying utilities.

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). Petitioner was credited for the standard deduction and the shelter expenses.

The petitioner does not contest the respondent's budget calculations, but asserts that she cannot afford to survive on the FS benefits allotted, as her cost of living has increased. She testified that she owes medical debts, owes a debt to her mother, and has to pay co-pays for her medical visits and/or prescriptions.

The respondent countered that there is an annual cost of living adjustment to FS benefits, but that petitioner is being allotted all of the benefits for which she qualifies. The respondent further advised petitioner to submit any medical expenses that she has in order that her benefits may be adjusted accordingly.

I have reviewed the respondent's FS budget calculations, and have found no error. The petitioner has in effect argued that the program standard is unfair and that the administrative law judge should grant her relief from the program requirements. It is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, she is not eligible for further FS benefits at this juncture; no exception applies; and I am without any equitable powers to direct any remedy beyond the remedies available under law. I would encourage petitioner to work with respondent to determine whether any of her medical expenses can be applied to her FS budget.

CONCLUSIONS OF LAW

The agency correctly calculated the petitioner's FS benefits in the amount of \$16.00.

THEREFORE, it is

ORDERED

That this 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 Madison,
Wisconsin, this 28th day of March, 2016

\sPeter McCombs
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 March 28, 2016.

Columbia County Health & Human Services
Division of Health Care Access and Accountability