



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/171885

PRELIMINARY RECITALS

Pursuant to a petition filed February 6, 2016, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Dane County Dept. of Human Services to reduce FoodShare benefits (FS), a hearing was held on March 9, 2016, at Madison, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether the county correctly reduced FS when petitioner reported a change.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED]
Dane County Dept. of Human Services
1819 Aberg Avenue
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner receives FS as a one-person household. In January, 2016 she received \$138 in FS.
3. On January 4, 2016 petitioner reported a new address with rent of \$350 each month. She reported paying for electricity but not heat. When the worker entered the changes, petitioner's FS were reduced to \$16 effective February 1, 2016.
4. Petitioner's income is \$996 monthly social security.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$155 per month. 7 C.F.R. §273.9(d)(1); FS Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FS Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FS Handbook, App. 4.6.7.

Petitioner's total income is \$996 social security. From that is deducted the \$155 standard deduction. There is no earned income deduction. There were no reported out-of-pocket medical expenses and no child care expense. Thus net income before the shelter deduction is \$841.

The shelter deduction is the amount of shelter expense greater than one-half of \$841 (\$420.50). The shelter cost is \$350 rent plus the \$293 utility standard for a total of \$643. Thus the shelter cost is \$222.50 more than \$420.50, making the shelter deduction \$222.50. I note here that because petitioner pays only for electricity and not heat her utility allowance is \$293 instead of the higher \$458 for household that pay for heat. See Handbook, App. 4.6.7.3 and 8.1.3.

The \$222.50 is deducted from \$841 to get final net income of \$618.50. A person with that net income is entitled to \$16 FS. See FS Handbook, App. 8.1.2. A review of the table at that handbook section shows that petitioner's net income would have to be as low as \$590 just to increase FS to \$17.

When petitioner's rent was higher her shelter deduction was \$656.50 and net income was \$185.50, a substantially lower amount.

I must conclude that the county correctly reduced petitioner's FS. The Division of Hearings and Appeals does not have authority to grant higher FS outside the formula devised within the federal rules.

CONCLUSIONS OF LAW

The county correctly reduced FS when petitioner reported a reduction in rent.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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 11th day of March, 2016

\sBrian C. Schneider
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 11, 2016.

Dane County Department of Human Services
Division of Health Care Access and Accountability