



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/171886

PRELIMINARY RECITALS

Pursuant to a petition filed February 5, 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:



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 he received \$50 in FS.
3. On January 1, 2016 petitioner reported that his rent was reduced from \$659 each month to \$325. When the worker entered the change, petitioner's FS were reduced to \$16 effective February 1, 2016.
4. Petitioner's income is \$1,208 monthly social security and \$14.50 monthly earned income.

5. Petitioner later reported that his rent actually is \$375. The higher amount did not result in an increase in FS.

### 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 \$1,222.50 (social security plus earned income). From that is deducted a \$2.90 earned income deduction and the \$155 standard deduction. There were no reported out-of-pocket medical expenses and no child care expense. Thus net income before the shelter deduction is \$1,064.60.

The shelter deduction is the amount of shelter expense greater than one-half of \$1,064.60 (\$532.30). The shelter cost is \$375 rent plus the \$458 utility standard for a total of \$833. Thus the shelter cost is \$300.70 more than \$532.30, making the shelter deduction \$300.70.

The \$300.70 is deducted from \$1,064.60 to get final net income of \$763.90. 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 \$659 his shelter deduction was \$584.70 and net income was \$479.80, a substantially lower amount.

Petitioner testified that he is required to eat an expensive diet due to health issues. However, the FS rules are clear that special diets cannot be a factor in determining the FS amount. In the subsection concerning the excess medical expense deduction, the federal regulation at 7 C.F.R. §273.9(d)(3) provides that there is a deduction from income of "[t]hat portion of medical expenses in excess of \$35 per month, *excluding special diets*, incurred by any household member who is elderly or disabled as defined in §271.2." Emphasis added.

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

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\sBrian C. Schneider  
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 11, 2016.

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