



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/172253

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 22, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Pierce County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 24, 2016, at Ellsworth, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner's FoodShare allotment.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]

Respondent:

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

By: [REDACTED] [REDACTED]

Pierce County Department of Human Services  
412 West Kinne Street  
PO Box 670  
Ellsworth, WI 54011

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Pierce County.
2. The county agency notified the petitioner on February 15, 2016, that she would receive a \$16 allotment as of February 1, 2016.

3. The petitioner earns \$2,404.22 per month.
4. There are two persons in her FoodShare household.
5. The petitioner pays \$400 a month for rent and pays for her own utilities.

### DISCUSSION

The size of a FoodShare allotment is determined by household size and net income. Net income is determined after subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d) from gross income.

The petitioner lives with one other person and earns \$2,404.22 per month. She is entitled to the \$155 standard deduction allowed for households with up to three members. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). She is also entitled to an earned income deduction equal to 20% of his \$2,404.22 earned income, or \$480.84. *See* 7 CFR § 273.9(d)(2).

But she is not entitled to the shelter deduction, which equals the amount that housing costs, including a standard utility allowance currently set at \$458, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. The petitioner's housing costs consist of her \$400 rent plus the \$458 standard utility deduction, or \$858. Because there is a standard utility allowance, her actual utility costs are not considered. Deducting the \$155 standard allowance and the \$480.84 earned income deduction from \$2,404.22 gross income, leaves her with \$1,768.38. Half of this is \$884.19. Her \$858 monthly shelter costs are less than this amount, so she does not get a deduction. This means that her countable net income is the \$1,768.38 left after subtracting her standard deduction and her earned income deduction from her gross income. The FoodShare allotment for a one-person household with this income is \$16, the amount the agency allotted to the petitioner. *FoodShare Wisconsin Handbook*, § 8.1.2.

She contends that the agency did not correctly determine her income, but she could not provide any alternative determination. Thus, the only way to come up with an alternative income is to guess, which is not a valid means of determining benefits, especially when the guess would not be an educated one. If the petitioner continues to believe the agency is determining her income incorrectly, she must provide proof of her assertion and file a new appeal.

I note to the petitioner that her income is higher in her FoodShare matter than her BadgerCare Plus matter because the FoodShare program obtains monthly income by multiplying weekly income by 4.3, while the BadgerCare Plus program determines monthly income by multiplying weekly income by four. Both make sense. There are 52 weeks and 12 months in a year. Dividing the 52 weeks by the 12 months gives 4.3. But if a person gets paid every week, in most months she will receive four paychecks. Why the two programs do not use the same multiplier to obtain monthly income, I have no idea. But it is the way the rules are written and what I must follow. Regardless, it would take a large swing in income for the petitioner's allotment to change. Any two-person household whose net income is between \$1,134 and \$2,163 receives this amount.

### CONCLUSIONS OF LAW

The county agency correctly determined the petitioner's FoodShare allotment.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal 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 14th day of April, 2016

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\sMichael D. O'Brien  
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 April 14, 2016.

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