



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/174181

PRELIMINARY RECITALS

Pursuant to a petition filed May 5, 2016, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on June 1, 2016, at Milwaukee, Wisconsin, with the parties appearing by telephone.

The issue for determination is whether the agency correctly determined petitioner’s FS amount.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By:   
Milwaukee Enrollment Services  
1220 W. Vliet Street  
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner applied for FS on April 12, 2016 for a household that includes his wife and two children. The only income is his wife’s earned income which averages \$2,695.56 monthly for FS. Petitioner pays \$675 monthly rent and is responsible for utilities.
3. By a notice dated April 18, 2016, the agency informed petitioner that the household would receive \$62 FS in April (prorated from the application date), and then monthly FS of \$94.

## 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 out-of-pocket 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)(6); FS Handbook, App. 4.6.7. The maximum shelter deduction is \$490 unless the household includes an elderly or disabled individual; in those cases there is no shelter cap. Handbook, App. 8.1.3. and 4.6.7.1.

The agency used the last two pay periods from petitioner's wife's employment to determine that she averaged 73.75 hours bi-weekly at \$17 per hour, and then multiplied that amount by 2.15 to get monthly income for FS purposes. (I note that for FS bi-weekly income is multiplied by 2.15 to get monthly income, but for Medical Assistance bi-weekly income is multiplied by 2, resulting in monthly income being budgeted differently for each program). Petitioner questioned whether the income was too high, but when I look at a more pay periods on petitioner's wife's income report, they tend to be in the 72-75 hour range, so I cannot find that the income budgeted by the county is wrong. If petitioner's wife does start working less hours, petitioner can always report the lower amount as a change and seek a review of the FS amount.

I note that petitioner potentially could be eligible for the excess medical expense deduction, but that is allowed only to individuals who have been found to be disabled by a federal or state agency such as Social Security, the VA, or Human Services, for purposes of disability benefits. Petitioner has applied for disability benefits but has not yet been determined disabled. His doctor's statement that petitioner is disabled is not sufficient to get the medical expense deduction.

I have reviewed the FS calculations, and I conclude that they were correct. The agency correctly determined that petitioner's family is eligible for \$94 FS based upon income and allowed deductions.

## CONCLUSIONS OF LAW

The agency correctly determined petitioner's monthly FS amount.

**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 9th day of June, 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 June 9, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability