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STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION  
Case #: FOO - 176065

PRELIMINARY RECITALS

Pursuant to a petition filed August 9, 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 September 22, 2016, by telephone.

The issue for determination is whether county correctly determined petitioner's child support for September FS.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By:   
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 # ) is a resident of Dane County.
2. In August, 2016 petitioner received \$206 FS for herself and her daughter. The county reviewed petitioner's case and began to budget \$363.93 as monthly child support. By a notice dated August 1, 2016, the agency informed petitioner that FS would be reduced to \$111 effective September 1, 2016.

3. Petitioner filed this appeal and reported that she did not receive as much child support as budgeted. Prior to the hearing ██████ reviewed the situation again. She reviewed actual child support disbursements paid to petitioner for the months of May, June, and July, and found that the average was \$200.38 per month.
4. ██████ ██████ re-determined September FS based upon \$200.38 child support income. She determined that petitioner's correct FS for September would be \$161.

### 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)(6); FS Handbook, App. 4.6.7.

FS allotments are based upon a household's prospective income, meaning that the agency must estimate the household's income for the month in which FS are to be received. FS Handbook, Appendix 4.1.1. Because child support frequently fluctuates, county workers are told to average the support from the prior three months. See Exhibit F in the county's document package.

In this case it is acknowledged that the original determination was incorrect. However, after the hearing request was filed ██████ corrected the FS budget. I reviewed the calculation and \$161 is the correct amount based upon petitioner's average child support for the three months prior to the determination.

Petitioner was going to check to make sure that the child support disbursements shown on the county record matched her bank deposits. I received nothing additional from petitioner, so I am assuming that the disbursements matched the deposits.

Petitioner also questioned the child support agency policy of withholding 25% of support received by Wisconsin Works (W-2) recipients. Mr. ██████ stated that it is a statewide policy. From my standpoint, the Division of Hearings and Appeals does not have jurisdiction on how child support is disbursed; any such appeal would have to go through the court that sets child support amounts.

### CONCLUSIONS OF LAW

Although the county erred in setting petitioner's September, 2016 FS allotment initially, the error was corrected prior to the hearing; petitioner was entitled to \$161 FS based upon the average child support received from the three months prior to the determination.

**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, **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 27th day of September, 2016

\s \_\_\_\_\_  
Brian 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 September 27, 2016.

Dane Cty. Dept. of Human Services  
Division of Health Care Access and Accountability