



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FWP/170411

PRELIMINARY RECITALS

Pursuant to a petition filed November 30, 2015, under Wis. Admin. Code § HA 3.03(4), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 22, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner had good cause for non-participation in the Food Share Employment and Training program (FSET).

There appeared at that time and place the following persons:

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 St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. The petitioner is an ongoing FoodShare recipient. On November 18, 2015, the county agency notified him that it would end his benefits on December 1, 2015, because he failed to complete the program's work requirements.

3. The petitioner has been employed and incarcerated sporadically since he renewed his FoodShare benefits, but has not provided any verification to the respondent.
4. The petitioner has not participated in the Food Stamp Employment and Training program despite several notices from the county agency informing him that he must do so.

DISCUSSION

Federal FoodShare law directs states to require recipients to work or participate in a Food Stamp Employment and Training Program (FSET) or a similar program. 7 CFR 273.7(a)(i). Wisconsin obtained a waiver that had made the FoodShare program's work requirements voluntary since 2008. In 2014, the state again made the work requirements mandatory. Wis. Stat. §49.79(10). Persons between 18 and 50 years old who are neither pregnant nor have children under 18 and who are mentally and physically able to work cannot receive FoodShare for more than three full months in any 36-month period unless they comply with the program's work requirements. 7 CFR § 273.24(b); Wis. Stat. § 49.79(1)(am) and (10)(a)2. To comply with these requirements, a person must work or participate in an authorized program at least 20 hours per week. 7 CFR § 273.24(a)(1). But a person does not have to meet these requirements if he has "good cause" not to. Federal regulations allow states discretion to determine what *good cause* is, but include the following requirement:

Good cause includes circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age six but are under age 12.

7 CFR § 273.7(2)

The county agency may verify good cause if there is a pattern of absences and the explanation of those absences is questionable. *FSET Handbook*, § 6.6.2. Persons who are unfit to work are exempt from work requirements. A person can be verified as unable to work by a statement from a health care professional or social worker. *FoodShare Wisconsin Handbook*, § 3.17.1.5.

The county agency notified the petitioner that it was ending his FoodShare benefits on December 1, 2015, because he had not complied with the FSET requirements. He concedes that he was notified of these requirements and has not fulfilled them, but he contends that he could not attend his appointments or hold regular employment because he was incarcerated from time to time. The petitioner did not provide any evidence to support his claims of incarceration, and while I have no reason to doubt the veracity of his testimony, I likewise lack any basis upon which to make a finding that his incarceration qualifies as good cause. Petitioner testified that he was incarcerated for "child support," and reported that he was in jail for 2 weeks, and then 30 days. No specific time periods were mentioned. He also indicated that he held a temp job, but was let go. He stated that he has worked off-and-on.

The respondent countered that the petitioner never made FSET appointments scheduled for September, October (x2), and November, 2015. The respondent also noted that it was never informed of petitioner's claimed periods of incarceration.

Because the petitioner has not complied with the FSET requirements, and because he has failed to establish any good cause for that failure, the county agency correctly seeks to end his benefits.

CONCLUSIONS OF LAW

The county agency correctly ended the petitioner's FoodShare benefits on December 1, 2015, because he has not complied with the program's work requirements.

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 22nd day of January, 2016

\sPeter McCombs
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 January 22, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability