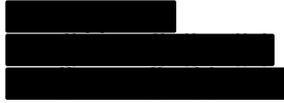




STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FWP/170889

PRELIMINARY RECITALS

Pursuant to a petition filed December 21, 2015, under Wis. Admin. Code § HA 3.03(4) (\*This subprogram no longer exists.), to review a decision by the Manitowoc County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 21, 2016, at Manitowoc, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner’s FS benefits.

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:

Manitowoc County Department of Human Services  
3733 Dewey Street  
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Manitowoc County.
2. On June 17, 2015, Petitioner was contacted to complete a FS renewal. He reported his address on in Manitowoc. The agency received returned mail noting Petitioner’s address as in Manitowoc. The agency re-sent the appointment letter to the address.

3. On June 18, 2015, the agency issued a notice to the Petitioner that he had been referred to the FSET program. He was advised that July, 2015 was his “begin month.” Petitioner was advised of the work requirements for the program. He was also advised that he will receive notice of an appointment for enrollment in the program.
4. The agency issued notices to the Petitioner on [REDACTED] beginning June 17, 2015 advising the Petitioner of appointments for enrollment on the following dates: June 23, 2015, July 2, 2015, July 14, 2015, July 21, 2015, July 30, 2015, August 11, 2015, August 18, 2015, August 27, 2015, and September 8, 2015. Petitioner did not appear for the appointments and did not contact the agency during this time to reschedule.
5. On September 17, 2015, September 29, 2015 and October 8, 2015, the agency issued appointment notices to the Petitioner at his [REDACTED] address. Petitioner did not appear for the appointments and did not contact the FSET agency to re-schedule an appointment until October 6, 2015.
6. On October 1, 2015, the Petitioner contacted the agency. He reported he worked three weeks in August but did not work in September. Petitioner was advised at that time that his FS was to close November 1, 2015 and he needs to contact FSET worker.
7. On October 2, 2015, the agency issued a Notice of Decision to the Petitioner informing him that his FS benefits will end effective November 1, 2015 due to using three time-limited benefit months (July, August and September).
8. On November 5, 2015, the Petitioner contacted the agency. He reported that he receives the appointment letters the day of or day before the appointment and he needs more time to arrange transportation.
9. On December 21, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

Pursuant to a provision of Wisconsin’s 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement.

#### 6.3.2 Non-Exempt ABAWD Participation Requirements

Non-exempt ABAWDs who do not meet the ABAWD work requirement will only be allowed to receive up to three full months of FoodShare (FS) benefits in a 36-month time period. ABAWDs subject to time-limited benefits (TLBs) may choose to meet the work requirement by participating in FSET.

As part of Wisconsin’s 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat., §49.79(10), which mandated FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24. The program began in Milwaukee County effective April 1, 2015, and FS recipients were required to meet the requirements beginning with the next FS review completed after April 1, 2015. FoodShare Wisconsin Handbook, §3.17.1.2.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If he does not fulfill the work requirement, he is limited to receiving no more than three months’ FS during a three year period. The requirements are stated in the FSET Handbook, as follows:

### 6.3.2.1 Definition of Working for ABAWDs

For ABAWDs, working is defined as one of the following:

- Work in exchange for money;
- Work in exchange for goods or services (in-kind);
- Unpaid work (e.g. volunteer work, community service);
- Self-employment; or
- Any combination of the above.

### 6.3.2.2 ABAWD Work Requirement

An ABAWD is considered to be meeting the ABAWD work requirement if one of the following applies:

- Working a minimum of 80 hours per month. Use converted work hours if paid weekly or bi-weekly;
- Participating in and complying with the requirements of an allowable work program at least 80 hours per month; or
- Both working and participating in an allowable work program for a combined total of at least 80 hours per month.
- Participating in and complying with the requirements of a workfare program.

FSET Handbook, §§ 6.3.2.1 & 6.3.2.2; and see FoodShare Wisconsin Handbook at §3.17.1.

An FSET worker must contact a referred member by letter or telephone within five business days of the referral. FSET Handbook, § 3.5.1. As part of the initial contact, the FSET worker must schedule an initial appointment. If the worker is not successful in making initial contact by telephone, the worker must send an appointment letter within five business days. *Id.* A minimum of two appointment letters must be sent to individuals who miss their initial appointment. FSET Handbook, § 3.5.2.

It is a participant's responsibility to attend scheduled appointments related to FSET. FSET Handbook, § 6.1. If the participant is unable to keep an appointment or anticipates being late for an appointment, s/he must notify the FSET case manager before the appointment. *Id.* If the participant is unable to make contact before the appointment, s/he must do so as soon as possible. *Id.*

To meet the work requirement the ABAWD must work a minimum of 80 hours per month, participate in a work program 80 hours per month, or a combination of both for 80 hours per month. FoodShare Wisconsin Handbook, §3.17.1.7. The person is limited to three months of FS eligibility in which he is not meeting the 80-hour requirement and is not exempt. *Id.*, §3.17.1.9. FS ends after three months of failing to meet the work requirement, but eligibility can begin again if the person becomes exempt or meets the work requirement for a 30-day period (the person could reapply for FS after meeting the requirement for 30 days). *Id.*, §3.17.1.11.

At the hearing, the Petitioner testified that he had problems getting his mail and that he was not getting the notices of appointments until the day before or day of the appointment. The Petitioner stated he needed more time to make arrangements for transportation. The Petitioner further testified that he attempted to contact the agency numerous times. There is no record of any contact by the Petitioner until October, 2015.

Several of the agency appointment letters indicate that they were mailed to the Petitioner at the [REDACTED] address. The Petitioner never reported a new address but the agency did receive return mail with a forwarding address on [REDACTED]. Three appointment notices were mailed to the Petitioner at the [REDACTED] address and 8 appointment notices were mailed to the [REDACTED] address. At the hearing, the agency representative testified that all appointment notices were re-sent to the [REDACTED] address. The agency also attempted to contact the Petitioner by phone on at least two occasions. I conclude the agency performed

its responsibility to advise the Petitioner of his initial appointments and acted with due diligence in that regard by providing at least 11 written notices and two phone contacts. The Petitioner reported on November 5, 2015 that he had received appointments though they were the day before or the day of the appointment yet he never contacted the agency until October. Contrary to the Petitioner's assertions at the hearing, a contact name and phone number are on the notices. On November 5, 2015, the Petitioner was advised to contact the FSET worker as soon as possible. His next contact with the agency was not until December 14, 2015.

Based on the information and evidence provided, I conclude that the agency properly discontinued the Petitioner's FS benefits after he used three time-limited benefit months and did not complete the enrollment process or meet the work requirements for the FSET program.

### **CONCLUSIONS OF LAW**

The agency properly discontinued the Petitioner's FS benefits after he used three time-limited benefit months and did not complete the enrollment process or meet the work requirements for the FSET program.

**THEREFORE, it is**

**ORDERED**

That 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**

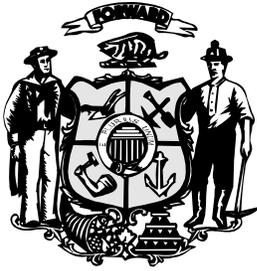
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 Milwaukee,  
Wisconsin, this 16th day of February, 2016

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\sDebra Bursinger  
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 February 16, 2016.

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