



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/171124

PRELIMINARY RECITALS

Pursuant to a petition filed January 5, 2016, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Milwaukee Enrollment Services to discontinue FoodShare benefits (FS), a hearing was held on February 3, 2016, by telephone.

The issue for determination is whether petitioner complied with FS work program requirements.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

|

Respondent:

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

By: [REDACTED]
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 # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for FS as a one-person household in August, 2015, and she began to receive maximum FS of \$194 monthly beginning in September. She did not report that she was disabled or otherwise unable to work. She was referred to the FS Employment and Training program (FSET) on September 23, 2015.

3. Petitioner enrolled in the FSET program on October 29, 2015 after missing earlier orientation appointments. She reported that she intended to enroll at [REDACTED] in criminal justice in January, 2016. She was assigned to 20 hours per week employment search, "Road Maps," and WorkFare.
4. Petitioner did not attend Road Maps or WorkFare. She turned in one job contact in November and six in December (one job contact is considered to be one assigned hour). She later signed an employability plan to attend ResCare, a training program, but she did not verify attendance at the program.
5. By a notice dated December 18, 2015, the agency informed petitioner that FS would end January 1, 2016 because her three-month time limited benefits were ending.

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. 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 application or review completed after April 1, 2015. FS Handbook, §3.17.1.2.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If she does not fulfill the work requirement, she is limited to receiving no more than three months' FS during a three year period. The program's requirements are specified in the Department's FS Handbook at §3.17.1. A person can be exempt from the program if she is a student of higher education who is otherwise eligible for FS. Handbook, §3.17.1.5. For a student to be eligible she must be employed at least 20 hours per week along with her schooling, be responsible for the care of a child, be participating in Wisconsin Works (W-2) or FSET and have school approved through W-2 or FSET, or be enrolled in a 2-year educational program with a diploma leading to employment that is in demand. Handbook, §3.15.1.

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. 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. Handbook, §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). Handbook, §3.17.1.11.

Petitioner did not meet the work requirements in the months of October, November, and December, 2015, and thus her three months have passed. She asked that her school enrollment be accepted as meeting the requirement, but she was not enrolled in those three months. If petitioner now is enrolled, she likely would be ineligible for FS anyway unless she also is working 20 hours per week (and if she is working 20 hours per week she would meet the work requirement and regain FS eligibility). If the program is a two-year one that could lead to employment, she would be exempt from FSET, but petitioner did not provide any information that could lead me to make that finding. She still can do so by reapplying for FS and providing the school information that could lead a worker to exempt her.

CONCLUSIONS OF LAW

The agency correctly closed petitioner's FS because her three-month time limited benefits ended without her completing required work program participation.

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 8th day of February, 2016

\sBrian C. Schneider
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 February 8, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability