



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/171914

PRELIMINARY RECITALS

Pursuant to a petition filed February 01, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 17, 2016, at Appleton, Wisconsin.

The issue for determination is whether the Outagamie County Department of Human Services (the agency) correctly denied the Petitioner's January 19, 2016 application for FoodShare 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: [Redacted], Economic Support Supervisor
Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Outagamie County.
2. On April 14, 2015, the Office of Inspector General (OIG) prepared an Administrative Disqualification Hearing Notice, alleging that the Petitioner committed an intentional program

violation by allowing someone to use his FoodShare card while he was incarcerated in 2013 and 2014. (Exhibit 2)

3. On May 28, 2015, the Division of Hearings and Appeals conducted the Administrative Disqualification Hearing. The Petitioner did not participate in that hearing. (Exhibit 2)
4. On May 28, 2015, the Division of Hearings and Appeals issued a decision, sustaining OIG determination that the Petitioner committed an intentional program violation and ordered the Petitioner to be disqualified from the FoodShare program for 12 months, beginning the first of June 2015. (Exhibit 2)
5. On June 11, 2015, the agency sent the Petitioner a notice of FoodShare Disqualification, advising the Petitioner that he had been disqualified from the FoodShare program for a period of 12 months. It did not state the month in which the disqualification began. (Exhibit 3)
6. On or about January 19, 2016, the Petitioner applied for FoodShare benefits. (Exhibit 4)
7. On January 20, 2016, the agency sent the Petitioner a notice indicating that his application was denied, because he had been disqualified from the FoodShare program for 12 months. (Exhibit 4)
8. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on February 1, 2016. (Exhibit 1)

DISCUSSION

At the hearing, the Petitioner wanted to discuss the issue of whether he allowed someone to use his EBT card, while he was incarcerated. The Petitioner wanted to argue his case, stating that he never gave anyone permission to use his EBT card while he was incarcerated and that he believes, his former roommate took his EBT card.

However, once a decision has been issued after an Administrative Disqualification Hearing, Federal regulations do not allow any further review of the determination by an administrative law judge. See, 7 C.F.R. § 273.16(e)(8)(ii). Consequently, I have no jurisdiction to consider the merits of whether OIG correctly determined that the Petitioner gave someone permission to use his EBT card while he was incarcerated. An administrative disqualification hearing regarding that issue took place in May 2015 and a decision has already been issued in that case. (See Exhibit 2) If the Petitioner wants to appeal the May 2015 decision, he must do so in circuit court. The Petitioner might wish to contact Legal Action of Wisconsin at:

Local: (920) 233-6521
 Toll Free: 800-236-1128
 Fax: 920-233-0307
 404 North Main Street, Suite 702
 Oshkosh, WI 54901

Given that the Petitioner was disqualified from the FoodShare program for one year from June/July 2015, subsequent to an Administrative Disqualification Hearing, the agency correctly denied the Petitioner's January 19, 2016 application for benefits. Petitioner will not be eligible for FoodShare benefits, until July 1, 2016.

CONCLUSIONS OF LAW

The agency correctly denied the Petitioner's January 19, 2016 application for benefits.

THEREFORE, it is

ORDERED

The petition 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 24th day of March, 2016.

\sMayumi M. Ishii
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 March 24, 2016.

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