



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/172822

PRELIMINARY RECITALS

Pursuant to a petition filed March 16, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on April 07, 2016, at Fond Du Lac, Wisconsin.

The issue for determination is whether the petitioner’s appeal of the denial of application for FS benefits is timely.

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:

Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES #) is a resident of Fond Du Lac County.
2. On October 1, 2016 the petitioner applied for FoodShare (FS) benefits.

3. On October 7, 2016 the agency sent the petitioner a notice stating that his application for FS benefits had been denied because he had previously used up three months of his time limited benefits through the FoodShare Employment and Training (FSET) program.
4. On March 16, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

An appeal of a negative action concerning FS must be filed within 90 days of the negative action, once timely and adequate notice is given to the household. 7 C.F.R. § 273.15(g); see also Wis. Adm. Code §HA 3.05(3)(b). All department notices of decision include standard language informing recipients of the appeal time limits. Failure to appeal within the 90-day limit means that the Division of Hearings and Appeals does not have jurisdiction to consider the merits of the appeal. The petitioner filed this appeal beyond the 90 day limit and I am without jurisdiction.

I note that at the hearing the petitioner testified that this appeal is no longer an issue for him. He has since been added to another FS case, and now receives FS benefits. Were his appeal timely, I would have no longer wished to pursue the appeal.

CONCLUSIONS OF LAW

The petitioner's appeal of the denial of his application for FS benefits is untimely.

THEREFORE, it is

ORDERED

That 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 11th day of April, 2016

\sCorinne Balter
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 April 11, 2016.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability