



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FWP/173240

PRELIMINARY RECITALS

Pursuant to a petition filed March 30, 2016, under Wis. Admin. Code § HA 3.03(4) to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 23, 2016, at Sheboygan, Wisconsin.

This matter was originally scheduled for hearing on May 12, 2016. On May 6, 2016, the Division of Hearings and Appeals received a letter from the Petitioner stating, I no longer need my hearing scheduled for Thursday, May 12, 2016... Attached to the letter was a completed Proof of Work Requirement Exemption. Based upon this letter the appeal was dismissed. A copy of the letter and Proof of Work Requirement Exemption was forwarded to the agency on May 11, 2016.

On May 24, 2016, the Petitioner submitted a rehearing request, indicating that the county agency had not taken action on his Proof of Work Requirement exemption, as he expected. As such, the rehearing request was granted.

The matter was then scheduled for June 23, 2016, and took place as expected.

The issue for determination is whether the agency correctly ended the Petitioner's FoodShare benefits effective April 1, 2016.

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
Sheboygan County Department of Human Services
3620 Wilgus Ave.
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:  
Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. On December 10, 2015, the agency sent the Petitioner a notice of proof needed, request verification of his inability to work by December 22, 2015. (Exhibit 18)
3. The Petitioner did not provide the requested verification by December 22, 2015. (Testimony of Petitioner)
4. On March 18, 2016, the agency sent the Petitioner a notice advising him that his FoodShare benefits would be ending effective April 1, 2016, because he used up his time limited benefits. (Exhibit 14)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on March 30, 2016. (Exhibit 1)

**DISCUSSION**

Effective July 1, 2014, the Department of Health services implemented a new policy limiting benefits that childless adults in Kenosha, Racine and Walworth counties may receive. *FoodShare Wisconsin Handbook (FSH) §3.17.1.2* This policy is referred to as the Able Bodied Adults without Dependents (ABAWD) policy and was implemented statewide effective April 1, 2015. *Id.*

Under ABAWD rules, childless, able-bodied adults must either meet ABAWD work requirements or be exempt from the work requirement in order to receive FoodShare benefits. *FSH §3.17.1.1* ABAWDs who are not exempt and who do not meet the work requirement, are only allowed to receive 3 full months of time-limited benefits in a 36-month period. *Id.*

A person is considered a Non-ABAWD, if that person is:

1. Under 18 or age 50 and older,
2. Unable to work,
3. Residing in a FoodShare household with a child under age 18, or
4. Pregnant

*FSH §3.17.1.4*

An ABAWD may be exempt from work requirements if the agency determines the person is:

1. Determined unfit for employment which includes:
  - a. Receiving temporary or permanent disability benefits
  - b. Mentally or physically unable to work, as determined by the IM agency**
  - c. Verified as unable to work by a statement from a health care professional** or a social worker.
2. Receiving Unemployment Compensation, or has applied for Unemployment Compensation and is complying with those work requirements;
3. Regularly participating in an alcohol or other drug addiction treatment or rehabilitation program; or

4. A student of higher education who is otherwise eligible for FoodShare (see section 3.15.1)
5. A high school student 18 years of age or older, attending high school at least half time;
6. A primary caregiver of a dependent child under age 6 or an incapacitated person;
7. Receiving Transitional FS benefits; or
8. Meeting the ABAWD work requirement.

*FSH §3.17.1.4*

The Petitioner asserts that the agency incorrectly ended his benefits, because he has not used up the time limited benefits. The Petitioner asserts that he should have been exempt as physically unfit for employment during the months in question. The Petitioner has submitted a Proof of Work Requirements Exemption form indicating that he has been physically and/or mentally unfit for employment since July 15, 2013, and that there is no anticipated end date to his condition. (Exhibit 2)

Although a copy of the Proof of Work Requirements Exemption was sent to the agency, it took no action on it, as the Petitioner had previously withdrawn the appeal, but did not reapply for benefits.

Because the agency has not made a determination regarding whether the Petitioner was exempt from the ABAWD work requirements, this matter will be remanded to the agency for that determination. If the Petitioner disagrees with that determination, he will have to file a new appeal.

### **CONCLUSIONS OF LAW**

The agency did not correctly end the Petitioner's benefits effective April 1, 2016.

**THEREFORE, it is**

**ORDERED**

That the agency review the Proof of Work Requirements Exemption provided by the Petitioner and determine whether the Petitioner was exempt from ABAWD work requirements effective January 1, 2016. If so, the agency shall correct the FS clock removing the TLBs and the agency shall reinstate the Petitioner's FoodShare benefits effective April 1, 2016.

The agency shall take all administrative steps to complete this task within 10 days of this decision.

### **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

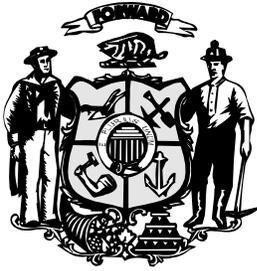
Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

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 27th day of June, 2016

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\sMayumi M. Ishii  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 27, 2016.

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