



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/173674

PRELIMINARY RECITALS

Pursuant to a petition filed April 14, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on May 17, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner is entitled to an increase in her FoodShare benefits for the month of April 2016.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED], Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 16, 2016, the Petitioner contacted the agency to report that her employment with [REDACTED] ended on March 13, 2016. (Exhibit 2, pg. 6)

3. On March 17, 2016, the agency sent the Petitioner a Notice of Proof Needed requesting verification of employment by March 28, 2016. (Exhibit 2, pgs. 16-21)
4. The agency did not close the Petitioner's FoodShare case for lack of verification. (Exhibit 2, pg. 6)
5. On April 8, 2016, the agency processed verification that it received from [REDACTED] verifying Petitioner's employment ending. (Exhibit 2, pg. 6)
6. The agency increased the Petitioner's benefits from \$19.00 per month to \$313 per month, effective May 1, 2016. (Exhibit 2, pg. 10)
7. On April 15, 2016, the agency sent the Petitioner a notice advising her that for the month of April 2016, she would be receiving benefits in the amount of \$111. (Exhibit 2, pgs. 22-27)
8. On April 19, 2016, the agency sent the Petitioner a notice advising her that her FoodShare benefits for the month of April 2016 would be decreased from \$111 to \$29.00. (Exhibit 3)
9. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 14, 2016. (Exhibit 1)

DISCUSSION

When reported changes cause an increase in benefits, the change takes effect the first of the month, following the month in which the change was reported, unless verification of the change is not reported within ten days. *FoodShare Wisconsin Handbook (FSH)§6.3.1* When verifications are not provided within ten days, but the case remains open, the change becomes effective the first of the month, following the month in which the verifications are received. *Id.*

In the case at hand, the Petitioner contacted the agency in March to report her employment ending. She was given 11 days, until March 28, 2016, to provide verification of her employment ending. The agency asserts that the Petitioner did not provide the requested verification until April 5, 2016. (Exhibit 4)

The Petitioner argues that she did whatever she was asked, but there is no evidence that the Petitioner provided the requested verification by March 28, 2016. The agency's records show that it was received on or about April 5, 2016, at the earliest.

As such, the agency correctly made the change in benefits effective May 1, 2016. The Petitioner is not entitled to increased/pro-rated benefits for the month of April 2016.

The Petitioner argued that she should still receive the auxiliary benefits for April 2016, because she was not given correct information by the agency. However, even if that were the case, I have no authority to grant benefits for those reasons. Administrative law judges must apply the law as it is written.

CONCLUSIONS OF LAW

The agency correctly determined that the Petitioner is not entitled to an increase in her benefits for April 2016.

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 7th day of June, 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 June 7, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability