



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/174607

PRELIMINARY RECITALS

Pursuant to a petition filed May 24, 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 June 16, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly pro-rated the Petitioner's FS benefits for May, 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]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On April 22, 2015, the Petitioner completed a telephonic renewal and reported a household of three. At that time, the Petitioner reported an email address. All of the Petitioner's notifications since then have been sent to the Petitioner's email address.

3. On April 23, 2015, the agency issued a Notice of Decision to the Petitioner at her address on [REDACTED], informing her that she would receive notifications regarding her FS benefits at her email address. The notice contained instructions on how to view notices. It further informed her that she could request to have notice mailed via regular US mail instead of online.
4. On August 24, 2015, the agency issued a notice to the Petitioner via email that her six month report form was due by September 30, 2015.
5. On September 8, 2015, the agency issued a Notice of Decision to the Petitioner via email informing her that her FS benefits would continue in the amount of \$511/month effective October 1, 2015.
6. On March 14, 2016, the agency issued a notice to the Petitioner via email that her review must be completed by April 30, 2016.
7. On April 11, 2016, the agency issued a notice to the Petitioner via email that her review must be completed by April 30, 2016.
8. On April 18, 2016, the agency issued a Notice of Decision to the Petitioner that her FS benefits would be terminated effective May 1, 2016 for failure to complete a renewal.
9. On May 12, 2016, the Petitioner contacted the agency regarding her FS benefits. The Petitioner stated she was unaware that notices were coming to her via email. The Petitioner requested that notice come to her in the US mail. The Petitioner completed her renewal.
10. On May 18, 2016, the agency issued a Notice of Decision to the Petitioner informing her that she would receive FS benefits of \$329 for May, 2016 and \$511/month effective June 1, 2016.
11. On May 24, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

FS regulations require a FS renewal to be completed at the end of a certification period. 7 CFR 273.14(b). The Wisconsin FS (FSH) states as follows:

There are several steps to completing a renewal for FoodShare cases:

1. Notification must be sent to the member informing him or her that the certification period is ending and an interview (2.1.3) must be conducted if benefits are to continue.
2. An interview must be conducted and the member must be notified of verifications required to determine continued eligibility for the program.
3. Certain information gathered at the interview must be verified (1.2.1).
4. Resolve any identified EPP s (Process Help Chapter 70).
5. Benefit eligibility must be confirmed in CWW (2.1.7) in order for the review or renewal to be considered complete.

FSH, § 2.2.1.3.

A renewal must be completed by the last day of the renewal month. Id., § 2.2.1.4. A FS case will close effective the last day of the renewal month if the renewal is not completed, including confirmation. Id. A FS case that closes at renewal may reopen without requiring a new application if the renewal is completed in the month following the end of the current certification period, as long as the interview was timely. Id.

If the food unit fails to complete a timely interview, the FS case will close effective the last day of the renewal month and a new FS application is required to re-open the case. Id.

In this case, the Petitioner argued that the agency improperly sent her renewal notices to her email address and that she did not request that notices be sent to her email address. The agency produced a notice from April 22, 2015 that was sent to the Petitioner via US mail. The notice is evidence that the Petitioner did provide the agency with an email address. Even if there was a miscommunication or misunderstanding about whether the Petitioner wanted her notices to go to email or regular mail, this notice was the Petitioner's opportunity to clarify how she wished to receive notices. The Petitioner testified that she does not recall receiving the April 22 notice. It was mailed to her proper mailing address and was not returned to the agency. Therefore, I conclude that the Petitioner received the notice and did not request that the agency change her notification method to regular mail.

The evidence establishes that the agency properly issued renewal notices to the Petitioner. The evidence establishes that the Petitioner did not complete a renewal interview or any other part of the renewal process by April 30, 2016. The Petitioner contacted the agency on May 12, 2016 after her case was closed. The agency properly pro-rated the Petitioner's FS benefits for May, 2016 based on a filing date of May 12, 2016.

CONCLUSIONS OF LAW

The agency properly issued pro-rated FS benefits to the Petitioner for May, 2016.

THEREFORE, it is

ORDERED

That the Petitioner's appeal 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 1st day of July, 2016

\sDebra Bursinger
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 July 1, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability