



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FTI/140363

PRELIMINARY RECITALS

Pursuant to a petition filed April 19, 2012, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (3), to review a decision by the Milwaukee County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on July 10, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner has abandoned this appeal.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Pam Hazley and Katherine May
Milwaukee County Department of Human Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. A hearing was commenced on July 10, 2012 to address Petitioner's appeal of a tax intercept notice.
3. The agency maintained that notice of the underlying FoodShare overpayment had been sent to the correct address thereby limiting Petitioner's appeal rights for this tax intercept case. Petitioner,

on the other hand, contended that she had changed her address with the agency thus the overpayment notice was sent to the wrong address and she had a right to a hearing as to the FoodShare overpayment.

- 4. Neither party had sufficient address information available at the July 10 hearing to be definitive. The matter was adjourned to give the parties an opportunity to locate better address evidence.
- 5. This matter was rescheduled for August 14, 2012. The Division of Hearings and Appeals sent notice to Petitioner at the address above. That has not been returned to the Division of Hearings and Appeals by the post office as being undeliverable.
- 6. Petitioner did not appear on August 14, 2012 and has offered no good cause for the nonappearance.

DISCUSSION

The Division of Hearings and Appeals may dismiss a matter as an abandoned appeal:

(4) The division shall deny or dismiss a hearing request under any of the following circumstances:

...

(d) The Petitioner has abandoned the hearing request. The division shall determine that abandonment has occurred when the Petitioner, without good cause, fails to appear personally or by representative at the time and place set for the hearing. Abandonment may also be deemed to have occurred when the Petitioner or the authorized representative fails to respond within a reasonable time to correspondence from the division regarding the hearing.

...

Wis. Admin. Code, § HA 3.05(4)(d).

Given the circumstances outlined above I am concluding that this appeal has been abandoned by Petitioner and dismissing it.

CONCLUSIONS OF LAW

That this appeal has been abandoned.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 19th day of September, 2012

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals

c: Milwaukee County Department of Human Services - email
Department of Health Services - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 19, 2012.

Milwaukee County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability