



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/142641

PRELIMINARY RECITALS

Pursuant to a petition filed July 27, 2012, 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 September 05, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly included the father of Petitioner's children in her FoodShare household.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Tammy Jo Keen and Belinda Bridges
Milwaukee Enrollment Services
1220 W Vliet St
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. Petitioner was sent a Notice of Decision dated July 23, 2012 that informed Petitioner that her FoodShare allotment was to decrease from \$396 to \$244 per month effective September 1, 2012. The reason for the decrease was the inclusion of the father (JLW) of Petitioner's children in the home and the inclusion of his income in the FoodShare budgeting process. JLW had an open FoodShare case of his own that was discontinued.

3. On July 28, 2011 online FoodShare application JLW listed his address as [REDACTED]. The same address was noted on a June 25, 2012 online submission by JLW. Ex #s 3 and 4.
4. The landlord for the [REDACTED] address informed the agency that Petitioner lives at that address. See Ex # 7.
5. A six month report form was sent to Petitioner at the [REDACTED] address on or about May 21, 2012. Petitioner returned it to the agency indicating that the [REDACTED] address was her address. Ex # 10.
6. Petitioner submitted an address change on July 27, 2012 that indicated that her address was [REDACTED]. On that same day she submitted a second address change indicating that her address was [REDACTED] Ave. address and that the previous address change indicating [REDACTED] should be ignored. Ex. # 11.
7. JLW signed a recall petition on November 28, 2012 as did Petitioner and noted their respective addresses to be [REDACTED] Ave. Ex #14.
8. A June 2, 2012 traffic citation issued to JLW lists his address as [REDACTED] Ave. Ex # 15. This is also the address on his driver's license issued in September 2011. Ex. # 8.
9. A consumer credit bureau reports list JLW's address as [REDACTED] Ex. # 9.
10. The [REDACTED] address is the home of Petitioner's grandmother.
11. JLW appealed the discontinuance of his FoodShare case and a hearing was scheduled for September 5, 2012 with the undersigned. He did not appear for that hearing and the appeal was dismissed; thus affirming the agency discontinuance of his FoodShare case.
12. The amount of income attributable to the household and the allotment calculation based upon the income was not disputed at the hearing.

DISCUSSION

FoodShare law and policy require that certain individuals be included in the FoodShare group regardless of whether they purchase food and prepare meals together. This includes spouses and parents and their biological children under age 22. *7 CFR 273.1(b)(1); FoodShare Eligibility Handbook (FSH), §3.3.1.3*. The income of all members must be included in determining eligibility and allotment levels. *FSH, §4.3.1*.

This requires that Petitioner and the father of her children be included in the same FoodShare household if living together.

At the hearing Petitioner indicated that JLW was now living at the [REDACTED] address and presented a notarized statement from her grandmother indicating that JLW was there as of August 1, 2012 and paying rent to her. Ex # 13. I note that this is the address for which Petitioner submitted an address change on July 27, 2012 indicating she had moved there and, on that same day, submitted another address change telling the agency to ignore the first address change.

The agency has submitted a significant amount of documentation, all of which indicates that both Petitioner and JLW were living together at the Mohawk address at the time of the agency decision to include JLW in Petitioner's household. I am, therefore, sustaining the agency decision to do so. Though Petitioner now contends that JLW lives with her grandmother this was subsequent to the agency action. Petitioner and JLW are free to ask the agency to consider the contention that he has lives in the home of her grandmother. This might well require more proof than the statement from the grandmother.

Finally, Petitioner also noted that there is a FoodShare overpayment claim made against her. She was advised to file a separate appeal regarding that agency action.

CONCLUSIONS OF LAW

That the agency correctly included the father of Petitioner's children in her FoodShare household along with his income.

THEREFORE, it is

ORDERED

That this appeal is 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 24th day of September, 2012

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

c: Milwaukee Enrollment 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 24, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability