



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]

DECISION

FOO/142727

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 31, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Portage County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on August 28, 2012, at Stevens Point, Wisconsin.

The issue for determination is whether the Department correctly denied the petitioner's FS application due to failure to complete an application interview.

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: Kari Faivre

Portage County Department of Human Services  
817 Whiting Avenue  
Stevens Point, WI 54481-5292

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County.
2. Petitioner completed and online ACCESS FS renewal on June 22, 2012, and respondent scheduled an interview for July 3, 2012.

3. Petitioner did not appear at the scheduled July 3, 2012, interview, but the renewal was processed pending the FS interview and a copy of petitioner's 2011 taxes.
4. On July 5, 2012, respondent mailed a checklist to petitioner to inform him of the need for his 2011 taxes to verify self-employment, and to advise him to reschedule the missed interview appointment by July 16, 2012.
5. Respondent received a scan of the 2011 taxes and processed the submission.
6. Petitioner was notified by correspondence dated July 18, 2012, that his FS case would be closing for failing to complete the interview, a renewal requirement, effective August 1, 2012.

### **DISCUSSION**

An FS renewal application must be completed within 30 days, and it must include an interview. 7 C.F.R. §273.14(a) and 273.10(f), *Foodshare Handbook* §2.2.1.4. If the process is not completed within the 30 days, the agency must close the FS case unless it notifies the applicant of an extension if the agency is unable to complete the process.

The FS Handbook instructs thusly:

...a review must be processed and confirmed by the last day of the review month unless there is an agency-caused delay such as allowing 10 days for verification. ... The FS case will close effective the last day of the review month ... if recertification is not complete.

*Foodshare Handbook* §2.2.1.4. Regulations further require:

The State agency must notify each household that misses its interview appointment that it missed the scheduled interview and that the household is responsible for rescheduling a missed interview. If the household contacts the State agency within the 30 day application processing period, the State agency must schedule a second interview.

7 C.F.R. §273.2(e)(3). "An interview must be completed within the review month of the current certification period to be considered timely. If the HH fails to complete a timely interview, FS will close effective the last day of the review month at adverse action and a new FS application is required. *Foodshare Handbook* §2.2.1.4.

The respondent has offered uncontested testimony and evidence demonstrating that it promptly scheduled an interview, attempted to reschedule that interview, and that proper and timely notices were provided to the respondent. The respondent does not argue that he failed to receive the correspondence, but instead complained that he had called the respondent three times, without success, in attempting to set up an interview. Twice, he testified, he was told that someone would get back to him, but no one did.

I find that the respondent has met its burden of proof demonstrating that it did not err in closing petitioner's FS case for failure to complete the renewal. The petitioner was placed on notice that he needed to complete the interview by a date certain. On July 18, 2012, petitioner was sent notice that his benefits would cease effective August 1, 2012. I note that, not until July 31, 2012, did petitioner file his appeal. Petitioner has failed to timely address the FS renewal requirements, and I cannot conclude, based on the evidence and testimony in this matter, that the respondent has erred in any way.

### **CONCLUSIONS OF LAW**

The Department correctly denied the petitioner's FS application for failure to complete an interview.

**THEREFORE, it is**

**ORDERED**

That the petition 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 Madison,  
Wisconsin, this 25th day of September, 2012

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Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals

c: Portage 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 25, 2012.

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