



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/142877

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 07, 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 06, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner's FS benefits for the period of July 1 – 15, 2012.

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: Katherine May  
Milwaukee Enrollment Services  
1220 W Vliet St  
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 May 14, 2012, the agency mailed a notice to the Petitioner at [REDACTED] St. informing him that his FS renewal needed to be completed by June 30, 2012.

3. The agency attempted to contact the Petitioner by phone on May 23, May 29 and May 31, 2012 to notify him of the need to complete his renewal. There was no answer and no answering machine to leave a message.
4. An appointment was scheduled for the Petitioner's renewal on June 11, 2012. The Petitioner did not appear for the scheduled appointment.
5. On June 18, 2012, the agency issued a Notice of Decision to the Petitioner at [REDACTED] St. notifying him that his FS benefits would end on July 1, 2012 due to failure to complete his renewal.
6. On July 16, 2012, the Petitioner submitted an online application for FS. The application was approved. The agency issued a Notice of Decision informing the Petitioner that his application was approved and he would receive FS benefits for July 16 – 31, 2012 in the amount of \$93. It further notified him that he would receive \$182/month in FS benefits effective August 1, 2012.
7. On August 7, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

There are several steps to completing a recertification (review) for FS cases:

1. Notification must be sent to the recipient informing him/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 recipient 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. Benefit eligibility must be confirmed in CARES (2.1.9) in order for the review or recertification to be considered complete.

FoodShare Handbook (FSH) §2.2.1.3; 7 CFR 273.14(b).

A review must be processed and confirmed by the last day of the review month unless there is an *agency-caused delay*. In those instances, the worker should document in CARES the reason for the late recertification and set the FS program request date for the first of the month so that there is no pro-ration of benefits. FSH, § 2.2.1.4.

In this case, the Petitioner presented credible testimony that he did not receive the agency notices issued to him on May 14, 2012 and June 18, 2012. The Petitioner had used the agency address through July 16, 2012 when he moved to his current address. He testified credibly that he was aware that his renewal was coming due and checked his mail at the agency at least weekly in May and June. He testified that he previously had problems getting his mail at the agency because there are several clients with his same name. He testified that the notices regarding his renewal were likely given to the wrong client. The agency worker confirmed that there are a number of clients of the agency with the same name as the Petitioner. The Petitioner also explained that he had given the agency a temporary phone number and had not yet updated his phone number at the time that the agency tried to call him.

Because the Petitioner testified credibly that he did not receive the May 14 and June 18 notices regarding his renewal and the evidence suggests that the delay in completing his renewal was caused by the agency giving the Petitioner's mail to the wrong client, I conclude the agency did not properly discontinue the Petitioner's FS benefits for the period of July 1 – 15, 2012.

### **CONCLUSIONS OF LAW**

The agency did not properly discontinue the Petitioner's FS benefits for the period of July 1 – 15, 2012.

**THEREFORE, it is**

### **ORDERED**

That this matter be remanded to the agency to determine the FS benefits due to the Petitioner for the period of July 1 – 15, 2012. The agency shall issue a Notice of Decision to the Petitioner regarding its determination and shall issue any FS benefits the Petitioner should have received for the period of July 1 – 15, 2012. These actions shall be completed by the agency within 10 days of the date of this decision.

### **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 27th day of September, 2012

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Debra Bursinger  
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 27, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability