



FH  
[REDACTED]

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

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/143165

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**PRELIMINARY RECITALS**

Pursuant a petition filed August 16, 2012, under Wis. Admin. Code § HA 3.03 (September 2001), to review a decision by the Milwaukee County Department of Health and Human Services ["County"] in regard to Food Stamps ["FS"], a Hearing was via telephone on September 19, 2012.

The issue for determination is whether it was correct to open petitioner's FS February 1, 2012 instead of January 16, 2012.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Department of Health Services

P.O. Box 7850

Madison, Wisconsin 53707-7850

BY: Pamela Hazley, Human Services Program Coordinator  
["HSPC"]

Milwaukee County Department of Health and Human Services  
1220 West Vliet Street  
Milwaukee, Wisconsin 53205

ADMINISTRATIVE LAW JUDGE:  
 Sean P. Maloney  
 Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County, Wisconsin.
2. Petitioner's FS was discontinued by the County effective January 1, 2012 because petitioner did not complete a Six Month report Form ["SMRF"] prior to end of her certification period on January 1, 2012.
3. On January 16, 2102 petitioner completed a SMRF.
4. On January 18, 2012 the County sent petitioner a letter requesting verification of her employment status; the verification was due January 27, 2012.
5. Petitioner provided the requested verification prior to January 27, 2012 via fax number provided by the County; the fax number provided by the County was not correct; the County was informed of this by petitioner via telephone on February 29, 2012.
6. On February 29, 2012, after speaking with petitioner, the County contacted the employer for verification and opened petitioner's FS effective February 1, 2012.
7. Petitioner filed a *Request for For Hearing* form with the County on August 15, 2012; the County faxed that *Request for For Hearing* form to the Division of Hearings and Appeals ["DHA"] and it was received by DHA on August 16, 2012; in February 2012 petitioner made an oral request to the County for a Hearing.

### DISCUSSION

The County correctly closed petitioner's FS effective January 1, 2012 because she failed to complete a SMRF prior to the end of her certification period. See, 7 C.F.R. § 273.14(a) (2011); *Food Share Wisconsin Handbook* ["FS Handbook"] 2.2.1.4. However, FS may reopen following such a closure if the requested action to resolve ineligibility is completed in the month following the end of the current certification period. FS Handbook 2.1.1.4. In this case petitioner completed a SMRF on January 16, 2012 and the County requested verification.

The County is required to verify certain factors relating to FS. 7 C.F.R. § 273.2(f)(1) (2011); See also, 7 C.F.R. §§ 273.2(f)(2)(i) & (f)(8)(i)(A) (2011); FS Handbook 1.2.6. The client has the primary responsibility for providing verification. 7 C.F.R. §§ 273.2(f)(5)(i) (2011); FS Handbook 1.2.1.3. However, the County must assist the household in obtaining verification as long as the household is cooperating. *Id.* If the county provided assistance to the client in obtaining verification but the client fails to submit verification FS may be denied. 7 C.F.R. § 273.2(g)(3) (2011). An application for FS may be denied if required verification is not provided within 10 days. 7 C.F.R. § 273.2(f)intro. (2011); FS Handbook 1.2.1 & 1.2.1.2.

Based on the evidence in the record of this matter I must conclude that petitioner provided verification in a timely manner to the fax number provided by the County (although it was not received by the County because the County had provided the wrong fax number). Thus, petitioner provided the verification in a timely manner as requested and instructed by the County. Therefore, petitioner's FS should have opened January 16, 2012 -- not February 1, 2012.

Finally, the County argues that petitioner did not request a Hearing in a timely manner. An FS appeal is timely if it concerns any action by the County which occurred in the prior 90 days. 7 C.F.R. § 273.15(g) (2011); Wis. Admin. Code § HA 3.05(3)(a) (September 2001); FS Handbook 6.4.1. However, in this case petitioner made an oral request to the County for a Hearing in February 2012. See, Wis. Admin Code § HA 3.05(2)(a) (September 2001). Petitioner's testimony in this regard is credible and is supported by County computer Case Comments.

### **CONCLUSIONS OF LAW**

For the reasons discussed above, it was not correct to open petitioner's FS until February 1, 2012 instead of January 16, 2012.

**NOW, THEREFORE, it is**

### **ORDERED**

That this matter be REMANDED to the County, that the County open petitioner's FS January 16, 2012, and that, within 10 days of the date of this Decision, the County issue all FS for which petitioner is otherwise eligible, and which have not already been issued to her, retroactive to January 16, 2012.

### **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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Sean P. Maloney  
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 25, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability