



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/143336

PRELIMINARY RECITALS

Pursuant to a petition filed August 24, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regards to the denial of FoodShare benefits (FS), a telephone hearing was held on September 19, 2012, at Janesville, Wisconsin. At the request of both parties, the record was held open for 15 days for the submission of additional information. This information was received from the agency, but not the petitioner as of today's date. However, subsequent to the hearing, on September 26, 2012, the county agency representative informed the administrative law judge that the agency had consulted with the Department and it was informed to verify the validity of out-of-state IPV data exchanges. Further, Ms. Edmonds reports that when this was completed, all of the recorded out-of-state IPV's were determined invalid and inaccurate, and the agency removed them from his case, re-determined the petitioner's FS eligibility retroactive to application, and issued FS retroactive to application. See, Email Correspondence of Pam Edmonds, on file, dated 9/26/2012.

The issue for determination is whether the petitioner's appeal of the county agency denial of his application for FS due to IPV's of record and household income is moot as a matter of fact and law.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Pam Edmonds, ESS I
Rock County Department of Social Services
1900 Center Avenue
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County. He lives with his minor son. He applied for FS as a household of 2 persons on August 13, 2012.
2. The agency processed the application and ascertained from the CARES database that the petitioner has had three separate intentional program violations assessed by at least three other states (Kentucky, Idaho & North Carolina), against his name and Social Security number. See, Exhibit #3, pp. 4-6.
3. On August 22, 2012, the county agency issued a Notice to the petitioner informing him that his application for FS had been denied because he was individually permanently barred from receiving FS as the result of three IPV's of record, and his household had income in excess of program limits. See, Exhibit #2.
4. The county agency determined based on the petitioner's 2011 tax returns that he receives \$927.66 per month from self-employment income, plus \$300 in rental income from a room-mate, plus \$214.01 in child support payments i.e., total gross income of \$1,441.67.
5. The petitioner pays rent of \$465 per month.
6. On August 24, 2012, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the county agency denial of FS.
7. The petitioner actually was receiving child support averaging \$139 per month in July – August, 2012.
8. On September 26, 2012, after the hearing, the agency reported that it had reviewed the petitioner's case and determined that the out-of-state IPV's were all inaccurate; and the agency re-determined the petitioner's eligibility for FS retroactive to application and issued all FS to which he was otherwise entitled as a result of the review computations disregarding the inaccurate IPV findings in the data exchange database.
9. No other issue remains for determination by the administrative law judge.

DISCUSSION

Subsequent to the hearing of September 19, 2012, the county agency has reviewed the petitioner's case, consulted with the Department, and ascertained that the out-of-state IPV data pertaining to the petitioner was inaccurate. The agency reported on September 26, 2012, that it disregarded all such IPV findings and re-determined the petitioner's eligibility for FS retroactive to August 13, 2012, and issue all FS to which he was otherwise entitled retroactive to that date.

No issue remains for determination by this administrative law judge as a consequence of these agency actions. The instant appeal is now moot as a matter of fact and law. If the petitioner disagrees with the sufficiency of the FS that the agency has now issued, as computed by the agency, then he must file a *new* appeal contesting the re-determination calculations.

CONCLUSIONS OF LAW

The agency has reversed the negative action, re-determined the petitioner's eligibility without any IPV's of record, and issued all FS to which the petitioner was determined otherwise entitled retroactive to August 13, 2012, and the instant appeal is moot.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby 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 27th day of September, 2012

Kenneth D. Duren, Assistant Administrator
Administrative Law Judge
Division of Hearings and Appeals

c: Rock County Department of Social Services - email
Department of Health Services – email



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The preceding decision was sent to the following parties on September 27, 2012.

Rock County Department of Social Services
Division of Health Care Access and Accountability