



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/143749

PRELIMINARY RECITALS

Pursuant to a petition filed August 16, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 3, 2012, by telephone.

The issue for determination is whether the county agency correctly discontinued the petitioner's FS effective June 1, 2012, due to lack of review completion, and then correctly prorated July 2012 benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Tom Miller, Supvr.

La Crosse County Department of Human Services
300 N. 4th Street
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Vernon County.
2. The petitioner had an ongoing FS case prior to July 2012. Her case was due for a review by June 30, 2012.

3. The petitioner completed a telephone review on June 26, 2012. At that time, she was required to send in a signed “signature page” and a verification item. By a verification notice dated June 27, she was advised that the signature page needed to be signed and returned by July 6, 2012. Exhibit 1, pp. 9-10.
4. The signature page was returned on July 17, 2012. The agency reopened the petitioner’s FS case effective July 17, and issued a July pro-rated benefit (\$206).

DISCUSSION

An agency and FS recipient must perform a periodic review of eligibility during specific time intervals (e.g., 12 months in many cases) as a condition of ongoing FS issuance to the recipient. 7 C.F.R. 273.14.(a); *FS Wisconsin Handbook (FSWH)*, 2.2.1 at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm> .

In performing a review, the parties’ responsibilities are as follows: (1) the county must send a notice to the recipient informing him/her that the certification period is ending and an interview 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, and (4) an appropriate eligibility entry must be made by the agency in the CARES computer system. *Id.*, 2.2.1.3.

In this case, the petitioner was notified of the review requirement, and the review interview was performed telephonically on June 26. The agency then requested return of a signed “signature page,” and an item of verification. A notice was sent to the petitioner, advising that the signature page was due in 10 days (July 6).

An agency may request certain items of verification. *FS Wisconsin Handbook (Handbook)*, §§1.2.4.1 – 1.2.4.3. The agency must give the client at least 10 days to supply requested verification. *Handbook*, §1.2.1.1. The responsibility for supplying verification then rests on the recipient. *Id.*, §1.2.1.3. However, if the client promptly advises the agency that she cannot obtain the verification, the responsibility for obtaining verification shifts to the agency. In this case, the petitioner did not timely supply verification or the signature page, contrary to 7 C.F.R. § 273.14(b)(2). She also did not advise the agency that she was having difficulty in obtaining the verification item within the 10 days. Thus, the agency’s discontinuance of the FS case and subsequent benefit proration was proper.

The policy direction on late review issues is as follows:

2.2.1.4 Review Processing Timeframe

The 30-day processing timeframe for a review is not the same as it is for applications. The 30-day review processing timeframe refers to the review month. In other words, 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. 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.

The FS case will close effective the last day of the review month at adverse action of the review month if recertification is not completed, including confirmation. The local agency and the FS recipient have until the end of the review month to complete recertification.

FS that close at recertification may reopen without requiring a new application under specific conditions. Allow FS to reopen at recertification if the requested action to resolve ineligibility is completed in the month following the end of the current certification period, as long as the interview was timely.

- 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.
- If FS close for lack of verification after a timely review and the household takes the required action within the calendar month following the certification period, the agency shall reopen FS and prorate benefits from the date the household took the required action. The new certification period will begin the month after the month the review was due.
- *If FS close for lack of signature after a timely review and the household returns the signature page within the calendar month following the certification period, the agency shall reopen FS and prorate benefits from the date the household returns the signature page. The new certification period will begin the month after the month the review was due.*
[emphasis added]

Handbook, § 2.2.1.4. See in accord, 7 C.F.R. § 273.14(e)(2). The agency's action is consistent with these authorities, and is upheld here.

CONCLUSIONS OF LAW

1. The Department correctly discontinued the petitioner's FS effective July 1, 2012, because she had not timely returned her review signature page, contrary to 7 C.F.R. § 273.14(b)(2).
2. The Department correctly prorated the petitioner's July 2012 FS benefits, because she submitted the documents needed to complete her review on July 17, 2012.

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 9th day of October, 2012

Nancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals
[REDACTED]

c: La Crosse County Department of Human Services - email
Department of Health Services - email



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The preceding decision was sent to the following parties on October 9, 2012.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability