



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/144218

PRELIMINARY RECITALS

Pursuant to a petition filed October 02, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 25, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly reduced the petitioner's FS for July through September 2012, due to a reduction in FS household size.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Alma Lezama, HSPC Sr.
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is currently a resident of Milwaukee County.
2. Through June 2012, the petitioner received FS for a household of four persons – self, minor child K, minor child L, and minor child S. On May 31, 2012, the petitioner filed a required online

review form, and reported a new address of [REDACTED] Thus, no street name was identified. During a telephonic follow-up interview, the petitioner stated that she was living at various places, so the worker advised that she should pick up her agency mail at the Dane County Job Center. The petitioner also stated during that conversation that children L and S were spending all of their nights at the home of her brother in Milwaukee.

3. The petitioner purchased food with her FS card in Milwaukee for the children L and S. The brother did not apply for FS for L and S.
4. L and S began attending Milwaukee schools in September 2012; they never attended Madison schools in the fall of 2012.
5. L and S lived in Milwaukee with the petitioner's brother from July through September 2012.
6. The petitioner moved back to Milwaukee in September 2012, and L and S were added to her FS case effective October 1, 2012.

DISCUSSION

A parent who is living with her minor children is able to claim those children as part of her FS household. Children who do not live with such a parent, are generally not part of the FS household:

U - Food Units:

One or more persons who live in the same household and purchase and prepare food together for home consumption. This group is tested for eligibility together. There are some exceptions for boarders, foster persons, and certain elderly and disabled individuals.

Examples

Examples of a food unit include:

1. A person living alone.
2. A group of persons living together who purchase and prepare meals together for home consumption.
3. A person (or group of persons) living with others, but who usually purchases and prepares food for home consumption separately from the others.

Purchase and Prepare

People living together who:

1. Share in the cost of purchasing food.
2. Share in the preparation of food.
3. Eat together.

Each person does not have to shop, provide money, prepare food, and eat together. Any of those activities is sufficient to include a member in purchasing and preparing food with the group.

G - Food Groups

The FoodShare group is formed by persons who are in the same food unit and pass all the individual non-financial criteria.

FoodShare Wisconsin Handbook, §3.3.1, at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>. A person can be temporarily absent from an FS group for up to 2 months. *Id.*, § 3.2.1.2. The children L and S were absent from the petitioner's Madison -based FS group for four months. Thus, they were not temporarily absent for FS purposes, and the agency's action with respect to FS is upheld.

The petitioner also appealed from an action taken on her BadgerCare Plus benefits during this period. That action will be reviewed in a separate decision, as different rules apply.

CONCLUSIONS OF LAW

1. The Department correctly determined that the petitioner's children L and S were not members of the petitioner's FS group from July through September 2012, while the petitioner was residing in Madison, Wisconsin.

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 served and 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, 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 28th day of November, 2012

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on November 28, 2012.

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