



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/144291

PRELIMINARY RECITALS

Pursuant to a petition filed October 3, 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 October 31, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner's request for FS from August 21, through October 18, 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
Madison, Wisconsin 53703

By: Mary Hartung, Income Maintenance Specialist – Advanced
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

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

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a homeless resident of Milwaukee County. He applied for FS at the county agency on or about August 21, 2012. He indicated at application that he was homeless, had moved from another state where he had been receiving FS benefits, and that he needed quick or expedited food assistance.

2. On August 22, 2012, the county agency issued a request for information letter to the petitioner to the mailing address that the petitioner had supplied at application, requesting proof of the applicant petitioner's citizenship, identity, and that SNAP benefits in another state had ended. This information was to be provided by September 20, 2012. The petitioner asserts that he does not recall whether he received this letter.
3. The petitioner next had contact with the county agency on October 3, 2012, when he called the agency to inquire as to whether his verifications had been received by the agency. He was informed that the agency had just received his documents by fax transmission from the UMOS agency site, and they would be processed within the hour.
4. At no time after August 21 and prior to October 3, 2012, did the petitioner contact the agency; or did the agency receive any verifications from the petitioner. In addition, at no time did the county agency contact the state (Virginia) reported by the petitioner to be where he had been receiving SNAP or FS benefits in the period prior to relocating to Milwaukee.
5. On October 3, 2012, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the delays in processing his FS application of August 21, 2012.
6. On October 9, 2012, the county agency issued a Notice of Decision to the petitioner informing him that his application for FS had been denied because he had not provided the proof of his identity or proof of the same benefit terminating in another state.
7. On or about October 24, 2012, the petitioner re-applied for FS with the county agency. Subsequently, the county agency verified that the petitioner's SNAP benefits from the State of Virginia ended on August 31, 2012, and that he is a US citizen and the agency verified his birth date. The agency determined the petitioner was eligible for FS effective October 18, 2012, and issued a combined October/November, 2012, allotment for one-person at the maximum level in the amount of \$290 for the period of October 18 – November 30, 2012.
8. The petitioner asserts that he remains eligible for FS from September 1 – October 17, 2012.

DISCUSSION

This case presents a rare but persistent fact pattern that arises from time to time. This petitioner asserts that he was homeless at application and that he was requesting immediate, or "expedited" , service as he had no resources. This fact pattern most frequently occurs when for whatever reason, an individual chooses to relocate to Wisconsin or an area of Wisconsin, completely bereft of resources for self-support.

In this case, however, he was not processed as a person "formally" requesting expedited FS. Rather, his application was accepted and he was issued a verification request letter seeking proof of his ID, citizenship, and the termination, or not, of FS benefits in another state.

At application, this individual testified credibly that he was homeless and without income or assets, and needed immediate assistance. The agency worker actually accepting or processing his application was not, or could not, be produced at the hearing. Ms. Hartung is a representative for the agency for fair hearing purposes.

Wisconsin FS policy provides for expedited FS and the following verification requirements:

2.1.4.2 Verification Requirements for Expedited Services

A food unit eligible for expedited benefit issuance is only required to provide verification of identity of the primary applicant before the expedited benefits can be issued. Any documents, which reasonably establish the applicant's identity, must be accepted, and no requirement for a specific type of document, such as a birth certificate or photo ID, may be imposed. Even collateral contact is acceptable. If any other required verification is readily available, it must be used in the initial eligibility determination. Other outstanding required verification items must be requested, however do not delay the issuance of expedited benefits pending the receipt of other requested verification.

CARES will deny ongoing months with a failure code reason related to expedited verification requirements. If requested verification is not received, the AG will remain closed due to failure to provide requested expedited verifications (codes 152, 153, or 154). In many instances a verification checklist is not sent, resulting in negative QC  errors. To avoid possible errors confirm all FS benefit months, including the second or third month "fail". Run eligibility a second time to place the case in pending status and to send a system generated verification request. Change the verification due date on the checklist to the 30th day of the application. Suppress any incorrect notices.

There is no limit to the number of times a household can be certified under expedited procedures as long as the household:

1. submitted all the required verifications within the last 30 day application processing period following an expedited issuance, or
2. was certified under normal processing standards since the last expedited certification.

FoodShare Wisconsin Handbook, §2.1.4.2.

Ultimately, this petitioner has to show definitive proof of his identity in the ongoing case process, but this should not by itself bar expedited FS. Ms. Hartung confirmed at the hearing that the proper application process would also have included the agency contacting the State of Virginia to establish the petitioner's FS status in that state. She testified that since then, it has been confirmed that his FS ended effective August 31, 2012, in Virginia. She testified that there also was not a proof of citizenship requirement applicable at the time of an expedited request.

The preponderance of the evidence in this record establishes that the petitioner was seeking expedited FS and that the agency incorrectly denied that request and processed his request under 30 day processing guidelines instead as a regular FS request. Given that he has subsequently proven that he is a citizen, proven his identity, and proven that FS ended in Virginia effective August 31, 2012, I can only conclude that he was eligible for expedited FS retroactive to September 1, through October 17, 2012, and the matter is remanded to the agency to issue all FS to which he was otherwise entitled, at the \$200 per month benefit level determined for October, 2012.

CONCLUSIONS OF LAW

That the county agency incorrectly processed the petitioner's request for expedited FS as a request for regular FS, and incorrectly denied his request for FS during the period of September 1 – October 17, 2012.

THEREFORE, it is

ORDERED

That the matter is remanded to the county agency with instructions to: take all actions necessary to certify the petitioner as eligible for FS retroactive to September 1, 2012, and through October 17, 2012, at the \$200 maximum FS allotment level per month for a 1 person household, using the data contained in his October 24, 2012, application as if received on August 21, 2012; and issue all FS to which he is otherwise entitled retroactive to September 1, 2012, and through October 17, 2012, if any. These actions shall be completed 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 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 1st day of November, 2012

Kenneth D. Duren, Assistant Administrator
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 1, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability