



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/144364

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 05, 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 November 19, 2012, at Madison, Wisconsin.

The issue for determination is whether the request for hearing was timely.

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: Abe Saloma

Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner had been receiving FoodShare until May 2012. His FS was closed due to a failure to renew.
3. Petitioner re-applied for FoodShare on June 11, 2012.

4. Petitioner's application was denied based on the Department determination of ineligibility due to student status. Notice was sent to petitioner on June 12, 2012 indicating denial of the new application. The notice stated on page 4 that any appeal of the adverse action must be filed by September 11, 2012.
5. Petitioner filed his request for hearing on October 8, 2012.

### **DISCUSSION**

FoodShare recipients must appeal negative decisions within 90 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Admin. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it. The agency notified petitioner on May 18, 2012 that his FS case was closing due to his failure to renew. After petitioner filed a new application, the agency notified the petitioner on June 12, 2012, that his new application was denied.

Petitioner admitted that he received the June 12 notice in the mail shortly after June 12. Petitioner stated that he did not notice the statement indicating the date by which an appeal would have to be filed. The October 8, 2012 request for hearing was not timely from either of the notices issued by the Department. Petitioner may re-apply at any time, but I am unable to reach the merits as this Division does not have jurisdiction over the matter.

### **CONCLUSIONS OF LAW**

The appeal was not filed timely.

**THEREFORE, it is**

**ORDERED**

That this appeal 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 29th day of November, 2012

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\sJohn P. Tedesco  
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 29, 2012.

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