



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/144417

PRELIMINARY RECITALS

Pursuant to a petition filed October 9, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on December 6, 2012, at Fond du Lac, Wisconsin.

The issue for determination is whether the petitioner's June 29, 2012 FS application was correctly denied for lack of verification.

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: Debra Abitz, ES Spec.

Fond Du Lac County Department of Social Services
87 Vincent Street
Fond Du Lac, WI 54935 -4595

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond du Lac County.
2. The petitioner formerly received FS, with benefits ending in May 2012. On June 29, 2012, the petitioner filed a new FS application. He completed a telephonic intake interview on June 29,

2012. During the interview, he stated that he was working at [REDACTED]. Accordingly, the worker sent him an employment verification form, which was due back by July 30, 2012. Exhibit A.
3. The employment verification form was not returned to the agency by July 30, 2012. The Department issued written notice to the petitioner advising that his FS application had been denied.
 4. Upon receiving the July 20 verification form, the petitioner promptly took it to his employer. However, the employer was not cooperative in completing and returning the form. The petitioner called the Moraine Lakes Consortium to report his difficulty with his employer. The Consortium said that a county worker would call him back. A county worker (not Ms. Abitz) later called the petitioner and told him to file a new FS application.
 5. The petitioner filed a new FS application on October 3, 2012, and FS benefits resumed effective that date.

DISCUSSION

To be eligible for FS, a household must sign an application form, undergo an interview, and submit requested verification. 7 C.F.R. §273.2(a); *FS Wisconsin Handbook*, 2.1.1.1, viewable at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>. The agency agrees that, by July 19, 2012, the petitioner went through his interview, signed an application, and was advised to submit verification of income. A written verification request followed on July 20. The petitioner asserts that he gave the employment form to employer [REDACTED] but that the employer was not cooperative. This employer has also been delinquent in paying wages to the petitioner. The petitioner was credible and had no motive not to send in the requested documents.

The petitioner advised the Department's Consortium that he could not obtain the verification being sought. In such a circumstance, the agency is supposed to assist the client in obtaining verification, or proceed on the basis of the best information available. *FSWH*, 1.2.1.3. That is what the agency will have to do here in computing the allotments for the petitioner for June 29 through October 2, 2012.

The petitioner also raised a Medicaid issue, which will be dealt with in a separate decision.

CONCLUSIONS OF LAW

1. The petitioner experienced difficulty in obtaining employment/income information, and advised the Department of the same; the Department therefore incorrectly denied his June 20, 2012 FS application.

THEREFORE, it is

ORDERED

That the petition is *remanded* to the county agency with instructions to determine the petitioner's FS allotments from June 29 through October 2, 2012, based on the best information available. This action shall be taken 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 8th day of December, 2012

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



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 10, 2012.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability