



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/144565 and FOO/144564

PRELIMINARY RECITALS

Pursuant to petitions filed October 17, 2012, under Wis. Admin. Code § HA 3.03(1), to review decisions by the Milwaukee Enrollment Services (MES) in regard to FoodShare benefits (FS), a hearing was held on November 13, 2012, at Milwaukee, Wisconsin.

The issues for determination are: a) whether Milwaukee Enrollment Services (MES) met its burden of proof to establish that it correctly and accurately reduced the petitioner's FoodShare (FS) benefits during the period of July through September, 2012; and b) whether MES correctly discontinued the petitioner's FS for the period of October 1, 2012 to October 15, 2012, due to petitioner not timely completing her renewal application for continued FS benefits.

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 senior
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who resides with her four children.
2. The petitioner receives FoodShare (FS) benefits for a household of five.

3. Milwaukee Enrollment Services (MES) incorrectly determined that petitioner was receiving \$141.90 per month from Metro Home Health Services as of July, 2012, and inaccurately budgeted that amount as earned income to the petitioner in calculating her FS benefits for the period of July 1, 2012 through September, 2012.
4. The petitioner received \$608 in W-2 benefits beginning July, 2012.
5. Milwaukee Enrollment Services sent a June 1, 2012 notice to the petitioner indicating that her FS benefits for a household of five would be reduced from \$793 to \$682 effective July, 2012 due to budgeting earned income from Metro Home Health Services.
6. The petitioner's employer, Metro Home Health Services, Inc. , confirmed in an October 24, 2012 letter that petitioner did not begin her employment until September 18, 2012 at the rate of 15 hours per week.
7. MES incorrectly budgeted earned income from Metro Home Health as of July 1, 2012, when it should not have budgeted that earned income until September 18, 2012.
8. Milwaukee Enrollment Services Center sent an August 13, 2012 notice to petitioner at her correct address stating that she must complete a renewal FS application by September 30, 2010, or her FS benefits would discontinue because her FS certification period ended as of October 1, 2012.
9. MES sent a September 18, 2012 Notice of Decision to the petitioner at her correct address indicating that her FS benefits would discontinue effective October 1, 2012, due to her failure to complete her FS renewal application for continued FS benefits.
10. The petitioner did not complete her FS renewal by the September 30, 2012 deadline, but instead completed her FS renewal on October 15, 2012.
11. MES re-opened the petitioner's FS benefits as of October 15, 2012.

DISCUSSION

REDUCTION OF PETITIONER'S FOODSHARE BENEFITS

During the November 13, 2012 hearing, the MES representative was unable to refute that MES needed to re-calculate petitioner's FS benefits for a household of five for the period of July through September, 2012, and issue to the petitioner any supplemental FS benefits to which she was entitled for that period. As a result, the hearing record is questionable whether MES correctly and accurately reduced petitioner's FS from \$793 to \$682 as of July 1, 2012. MES was unable to present any reliable evidence to establish that it had correctly and accurately calculated the petitioner's FS benefits for a household of five for the months of July, August and September, 2012.

In any reduction of benefits or calculation of benefits, the county agency has the burden of proof to establish that it correctly and accurately determined and calculated the recipient's benefits. The hearing record is clear that MES needed to re- calculate the petitioner's FS benefits for the period of July through September, 2012 based upon the above Findings of Fact. Accordingly, for the above reasons, MES failed to meet its burden of proof to establish that it correctly and accurately calculated the petitioner's FoodShare (FS) benefits during the period of July through September, 2012.

DISCONTINUANCE OF PETITIONER'S FS

The second issue is whether MES correctly discontinued the petitioner's FS for the period of October 1, 2012 to October 15, 2012, due to petitioner not timely completing her renewal application for continued FS benefits.

During the November 13, 2012 hearing, the MES representative established that MES sent two notices to the petitioner at her address of record that she must complete her FS renewal application prior to October 1, 2012 to have continued FS benefits. MES indicated that petitioner's FS certification period ended as of October 1, 2012.

2.1.1.1 Application Process

The FoodShare application process includes:

1. Submitting an application by:
 - a. submitting a name, address, and signature on an initial application registration form to set a filing date through CARES Client Registration,
 - b. using the FoodShare Wisconsin Application Form (F-16019A or F-16019B) **OR**
 - c. completing the application via ACCESS.
2. Completing a face to face or telephone interview. (2.1.3.5),
3. Verifying certain information (1.2.1), and
4. Confirming the FS eligibility determination in CARES (2.1.7).

Food Share Wisconsin Handbook, 2.1.1.1

The petitioner was unable to refute that she did not complete her FS application renewal process by the September 30, 2012 deadline, and completed her renewal on October 15, 2012. Accordingly, based upon the above, I conclude that the Milwaukee Enrollment Services Center correctly discontinued the petitioner's FS benefits during the period of October 1, 2012 to October 15, 2012, due to failure to timely complete her renewal application for continued FS benefits.

CONCLUSIONS OF LAW

1. The Milwaukee Enrollment Services (MES) did not meet its burden of proof to establish a prima facie case that it correctly and accurately determined the petitioner's FS benefits for a household of five for the period of July, 2012 through September, 2012 because petitioner's employment and earned income did not begin until September 18, 2012.
2. MES needs to re-calculate petitioner's FS benefits for a household of five for the period of July through September, 2012, and issue to the petitioner any supplemental FS benefits to which she was entitled for that period.
3. Milwaukee Enrollment Services Center correctly discontinued the petitioner's FS benefits during the period of October 1, 2012 to October 15, 2012, due to petitioner's failure to timely complete her renewal application for continued FS benefits.

THEREFORE, it is

ORDERED

The matter is remanded to Milwaukee Enrollment Services with instructions to: a) re-calculate petitioner's FS benefits for a household of five for the period of July 1, 2012 through September, 2012 without budgeting any earned income for petitioner during the period from July 1, 2012 until her employment began on September 18, 2012, but include the budgeting of \$608 in W-2 benefits; and b) issue to the petitioner any supplemental FS benefits to which she was entitled for a FS household of five for the period of July, 2012 through September, 2012, within 10 days of the date of this Decision. In all other respects the petition is hereby 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 10th day of December, 2012

\sGary M. Wolkstein
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 December 10, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability