



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/144571

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 17, 2012, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Rock County Dept. of Social Services in regard to FoodShare benefits (FS), a hearing was held on November 20, 2012, by telephone.

The issue for determination is whether petitioner failed to complete her review timely.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Mary Donahue, Amy Hartley  
Rock County Dept. of Social Services  
1900 Center Avenue  
PO Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County who receives FS.
2. Petitioner was scheduled for a review by the end of August, 2012. A notice dated August 17, 2012 informed petitioner that FS would close September 1, 2012 if the review was not completed.
3. Petitioner completed a telephone interview on August 28, 2012. The work then sent petitioner a letter that included information obtained at the review plus a blank signature page to sign and return. The deadline for returned the signature page was September 10.

4. Petitioner signed and mailed the page immediately. For unknown reasons it was not received at the agency.
5. Petitioner later inquired about the failure to issue FS for September. She was told that the signature page had not been received. She then signed a new page and FS were opened effective September 25, 2012, the date the new page was received by the agency. Thus FS were prorated only from September 25 to the end of the month.

### **DISCUSSION**

An FS recipient must do a periodic review to continue eligibility. 7 C.F.R. §273.14. Failure to complete a review results in the closing of the case. If the review is not completed until after the case is closed because of household error or inaction, the FS are not issued in full. Instead, the case is treated as a new application, and benefits are to be prorated as of the date of the review. 7 C.F.R. §273.14(e)(3); FS Handbook, Appendix 2.2.1.4.

The situation in petitioner's case is discussed at Appendix 2.2.1.4:

If FS close for lack of signature after a timely review and the household returns the signature page within the calendar month following the certification period, the agency shall reopen FS and prorate benefits from the date the household returns the signature page. The new certification period will begin the month after the month the review was due.

Petitioner testified that she signed the signature page immediately upon receiving it. Petitioner's sister testified that she drove petitioner to the mailbox and that she dropped the envelope into the box. There are a number of things that could have happened after that. The envelope might have had the wrong address on it. It might not have been stamped (although I suspect that the postal service would have delivered it postage due to the agency). It could have been lost at the postal service, or at the county agency.

Given the testimony from petitioner and her sister, and the fact that petitioner otherwise was prompt in doing the review and acting when the FS were not issued, I will give her the benefit of the doubt and conclude that the envelope was lost or misplaced at the agency. Since the failure to complete the review, therefore, was not due to petitioner's error or inaction, I will order the FS issued.

### **CONCLUSIONS OF LAW**

Although the signature page for petitioner's review was not returned to the county worker timely, the failure was not due to petitioner's error or inaction.

**THEREFORE, it is**

**ORDERED**

That the matter be remanded to the county with instructions to issue petitioner appropriate FS for the period September 1 to September 24, 2012, within 10 days 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 21st day of November, 2012

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\sBrian C. Schneider  
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 21, 2012.

Rock County Department of Social Services  
Division of Health Care Access and Accountability