



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/144711

PRELIMINARY RECITALS

Pursuant to a petition filed October 23, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 25, 2013, by telephone. A hearing set for December 3, 2012, was rescheduled at the petitioner's request.

The issue for determination is whether the Department correctly discontinued the petitioner's FS for the October 1 – 28, 2012, period.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Tom Miller, Supr.

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Monroe County.

2. The petitioner had an ongoing FS case prior to October 2012. Her case was due for submission of a *FoodShare and/or Child Care Six Month Report Form* (SMRF) no later than September 30, 2012.
3. The SMRF was mailed to the petitioner at [REDACTED] on August 20, 2012. The petitioner received the SMRF. The SMRF directed her to return the completed SMRF to the CDPU, at [REDACTED]
4. The petitioner placed a completed SMRF in a mailbox, addressed to the correct address, on September 3, 2012.
5. The CDPU has no record of receiving the petitioner's SMRF.
6. On September 18, 2012, the Department issued written notice to the petitioner advising that her FS would be discontinued effective October 1, 2012. The basis for discontinuance was failure to file a SMRF.
7. The petitioner filed a new FS application on October 29, 2012. Her FS case reopened effective October 29, 2012.

DISCUSSION

SMRFs are required to be submitted for some FS households, such as those with unstable addresses. *FS Wisconsin Handbook*, § 2.2.1. The petitioner was required to submit a SMRF before October 1, 2012. She admits receiving a SMRF. The best evidence in the record is that the petitioner placed a SMRF in the mail on September 3, 2012. She had a very specific recollection of the mailing date.

Accordingly, I will direct the agency to ask her for any needed forms or verifications (since it does not have her SMRF) within 10 days of the date of this Decision, give her 10 days to supply any requested documentation, and then issue the appropriate FS for the October 1 – 28, 2012 period.

CONCLUSIONS OF LAW

1. The Department incorrectly failed to process the petitioner's September 2012 SMRF.

THEREFORE, it is

ORDERED

That the petition is remanded to the Department with instructions to:

- (1) request any needed information or verification from the petitioner within 10 days of the date of this Decision,
- (2) allow the petitioner to supply the requested information/verification within 20 days of the date of this Decision, and
- (3) *if* the petitioner submits the requested items, determine and issue the petitioner's FS supplement for the October 1-28, 2012 period within 30 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 25th day of January, 2013

\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 January 28, 2013.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability