



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/145280

PRELIMINARY RECITALS

Pursuant to a petition filed November 13, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 11, 2012, at Milwaukee, Wisconsin. The record was held open for 7 days post-hearing to allow the Petitioner to submit additional information. The Petitioner did submit additional information on December 12, 2012. A decision was issued by the Division of Hearings and Appeals on January 19, 2013. On January 28, 2013, the Petitioner submitted a rehearing request regarding reimbursement of transportation expenses. The Petitioner's request was granted and a hearing was held on February 19, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency must reimburse the Petitioner for transportation expenses related to her FSET employability plan.

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: Katherine May

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner is a voluntary participant in the Food Stamp Employment and Training (FSET) program.
3. The Petitioner agreed to an FSET Employability Plan which commenced on October 10, 2012 and was scheduled to be reviewed by April 10, 2013. The plan was administered by Maximus, Inc. at [REDACTED], Milwaukee. The plan indicated that the Petitioner was to engage in a job search and meet bi-weekly with a case manager. The plan stated that transportation services would be allowed and provided.
4. On November 7, 2012, the agency issued a FSET Appointment Notification to the Petitioner informing her of an appointment on December 5, 2012 at 10:45 a.m. At that appointment, the Petitioner was notified that the FSET program for the 29th St. location had been suspended due to lack of funding. The Petitioner was advised that she could continue services at another location.
5. On November 13, 2012, the agency provided the Petitioner with bus tickets.
6. On November 13, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals. She requested reimbursement of transportation costs for the job search activities she performed as part of the program in the amount of \$562.50.
7. In January, 2013, the Petitioner's FSET case was closed per her request.

DISCUSSION

The FSET Program was created as a result of the federal Food Security Act of 1985, which amended the Food Stamp Act of 1977. FSET regulations were amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and the Farm Security and Rural Investment Act of 2002 and 2008. The USDA United States Department of Agriculture / FNS Food and Nutrition Service created federal regulations at 7 CFR 273.7 et. sec. FSET Handbook, §1.5. State legislation for FSET can be found at section 49.79, Wisconsin Statutes.

Under a mandatory FSET program, as many as 70% of FSET participants were sanctioned for nonparticipation, resulting in greater food insecurity. Federal regulation contains a provision that allows States to operate a voluntary employment and training program. The Wisconsin 2007-2009 biennial budget included a provision, which allowed the FSET program to become voluntary, and transferred the administration of FSET from the Department of Workforce Development to the Department of Health Services (DHS).

According to the FSET Handbook in Section 2.4.3.1, it is the responsibility of the FSET agency to ensure the availability of assistance for transportation and work-related expenses to FSET participants. FSET participants are eligible for assistance to cover the cost of transportation and work-related expenses if they are reasonable and necessary for the completion of assigned FSET activities. There is no limit to the length of months for participant reimbursement as long as the FSET participant is in approved FSET activities and the assistance is necessary for the completion of the assigned activities. The Handbook further states:

The nature and scope of the FSET transportation and work-related expenses provided will vary from agency to agency depending upon availability of funding and the extent to which barriers exist for the FSET participant within the local area.

FSET Handbook § 2.4.3.1.

The FSET program is voluntary in Wisconsin and is subject to available funding. In late 2012, some FSET programs, including the one attended by the Petitioner, had run out of funds available to persons

enrolled in the program. The Petitioner was able to get some bus tickets from the agency in November, 2012 but such benefits were not available to all enrollees.

The Petitioner's FSET case was closed in January, 2013 per her request when she decided to register at another location with a new worker. The Petitioner was informed that she can only be registered at one FSET location. In order to receive FSET benefits, the Petitioner must re-enroll at a location and attend an orientation.

There was no additional evidence produced at the hearing regarding the Petitioner's request for transportation reimbursement. The ability of an enrollee to obtain transportation benefits is subject to the availability of funding and resources at an FSET agency. The agency at which the Petitioner was enrolled had no bus tickets available and no funding to reimburse her for transportation expenses. Also, I note that the Petitioner's evidence was not sufficient to demonstrate that her expenses were specifically related to her employability plan for the FSET program.

Based on the evidence produced, I conclude that the agency is not required to reimburse the Petitioner for transportation expenses in the amount of \$562.

CONCLUSIONS OF LAW

The agency is not required to reimburse the Petitioner for transportation expenses in the amount of \$562.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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 Milwaukee,
Wisconsin, this 5th day of March, 2013

\sDebra Bursinger
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 March 5, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability