



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/145656

PRELIMINARY RECITALS

Pursuant to a petition filed December 03, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on January 17, 2013, at Kenosha, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's FS benefits application.

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: Lauren Fox

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On September 12, 2012, the agency conducted an intake review with the Petitioner. At the review, the Petitioner told the agency that she was no longer employed.

3. On September 13, 2012, the agency issued a Notice of Proof Needed to the Petitioner requesting proof of residency and employment verification. The due date for the requested information was October 4, 2012.
4. On December 4, 2012, the agency issued a Negative Notice to the Petitioner informing her that her application for FS benefits had been denied due to failure to submit requested verifications.
5. On December 3, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The agency may require verification of employment status for purposes of determining eligibility for benefits. The applicant has primary responsibility for providing required verification. FoodShare Handbook (FSH) § 1.2.1.3; 7 CFR 273.2(f)(5).

In this case, the Petitioner testified that she had difficulty obtaining the requested information from the employer. She contacted the agency for assistance and did not receive a return phone call. The Petitioner testified that this attempted phone call for assistance to the agency occurred the week after October 4, 2012. The Petitioner also testified that when she received the information, she faxed it to the agency from the public library. She provided a fax cover sheet indicating 3 pages being faxed including the cover sheet, a residential lease agreement and her final pay statement. The Petitioner was unable to produce a receipt to show when the information was faxed to the agency and the Petitioner could not recall the date.

Based on the evidence and testimony, I conclude that the agency properly denied the Petitioner's FS benefits application. The Petitioner testified credibly that she was unable to get the information requested but she did not seek assistance from the agency until after the due date for the information. Though it is not known when the Petitioner faxed the lease and pay statement, based on the testimony, it appears to have been after October 4.

I note that the agency indicated that the Petitioner can re-apply for benefits at any time and provide the required information.

CONCLUSIONS OF LAW

The agency properly denied the Petitioner's FS application.

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 29th day of January, 2013

\sDebra Bursinger
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 29, 2013.

Kenosha County Human Service Department
Division of Health Care Access and Accountability