



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/145705

PRELIMINARY RECITALS

Pursuant to a petition filed December 03, 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 03, 2013, at Lancaster, Wisconsin.

The issue for determination is whether petitioner should have received FS benefits December 1 through December 4, 2012.

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: Tom Miller

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

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Grant County.
2. Petitioner applied for and received FS benefits for the months of October, 2012 and November, 2012, while living in [REDACTED]

3. Petitioner relocated to Grant County on or about November 29, 2012.
4. Case Comments dated November 14, 2012, indicate that FS for “[December] is pending for [verification] of income for [REDACTED]..” Exhibit 2.
5. Respondent sent petitioner a “Notice of Proof Needed” requesting petitioner verify employment at [REDACTED] [REDACTED] and court-ordered child support payments. The verification was due November 24, 2012. Exhibit 3.
6. The requested employment verification was received by respondent on November 29, 2012.
7. Petitioner’s on-going FS benefits for December, 2012, were denied due to his failure to provide employment verification timely.
8. Petitioner reapplied for FS benefits, and was granted FS benefits effective December 5, 2012.

DISCUSSION

Petitioner applied for FS benefits for a 2-member household on October 17, 2012. He was approved for expedited benefits for October and November, and an interview was held via telephone on November 14, 2012. Immediately following the interview, petitioner was sent a request for verification of his employment and child support. The initial due date of November 24, 2012 was changed to November 26, 2012, due to the Thanksgiving holiday. Petitioner testified that he did not receive the request for verification until after Thanksgiving. He credibly testified that he faxed the Employment Verification Form (EVFE) to [REDACTED] on November 25, 2012. Respondent noted that the EVFE was received via facsimile on November 29, 2012.

The agency must give the client at least 10 days to supply requested verification. *Handbook*, §1.2.1.2. The initial due date was only 9 days after the date of the verification notice; the amended due date rectified that issue. The responsibility for supplying verification then rests on the recipient. *Id.*, §1.2.1.3. When requested income verification is not timely received, the agency may correctly deny an application or close a case undergoing review. *Id.*, §1.2.4.1; 7 C.F.R. §273.2(g)(3) (January 2010).

We must next turn to the rules on processing a late verification submission. The policy direction states as follows:

1.2.1.2 Request for Verification

...

Allow FS to reopen when closed for lack of verification after a change is reported or discovered, as long as the requested verification is provided in the calendar month following case closure.

FSWH, 1.2.1.2. The respondent conceded at hearing that it did, in fact, receive the verification by the end of November, specifically November 29, 2012. Respondent further conceded that petitioner should not have had to reapply on December 5, 2012, and that his FS benefits should have continued from December 1, 2012, though December 4, 2012. Therefore, I conclude that the petitioner’s FS benefits were incorrectly terminated during the period of December 1, 2012, though December 4, 2012.

CONCLUSIONS OF LAW

The petitioner was entitled to FS benefits during the period of December 1, 2012, though December 4, 2012, since the requested employment verification was received by the respondent on November 29, 2012.

THEREFORE, it is

ORDERED

That the petition is remanded to the county agency with instructions to re- determine the petitioner's FS allotment for the period of December 1, 2012, though December 4, 2012. This action shall be taken within 10 days of the date of this Decision. In all other respects, the petition 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 Madison,
Wisconsin, this 25th day of January, 2013

\sPeter McCombs
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 January 25, 2013.

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