



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/146619

PRELIMINARY RECITALS

Pursuant to a petition filed January 16, 2013, 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 February 19, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined petitioner's Transitional FS for August through December 2012 when it did not act upon a change request that petitioner made in September 2012 requesting an addition of two persons to her household.

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: Sharon Thacker

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On July 18, 2012 the agency issued a written notice to the petitioner advising that her FS would increase from \$589 to \$750 effective August 1, 2012. The basis for the increase was the

elimination of her W2 payment from the petitioner's income. That notice also advised the petitioner that she was receiving Transitional FS, due to the cessation of her W2 benefits, through December 2012.

3. On September 28, 2012 petitioner reported a change in her household composition to the agency as she wanted to add two persons.
4. On October 3, 2012 the agency issued a notice of decision stating that she would receive \$750 in Transitional FS each month until December 2012, and that she would get a letter before the 5-month FS period ends so that she could reapply. Exhibit 1. That notice also advised that the two children were added to the household, but that her FS would not change. She was advised she could apply for regular FS at any time.

DISCUSSION

Transitional FoodShare (TFS) benefits automatically extend FS benefit eligibility for 5 months to food units whose Wisconsin Works (W-2) or Tribal (TANF)(TT) cash assistance ends as long as:

1. the member was part of an active FS case in the benefit month and the month the last W-2 or TT payment was issued, and
2. the member was receiving a W-2 or Tribal TANF payment. This does not include W-2 Trial Job Placements or Transitional Jobs case managed by a W-2 agency.

See *FoodShare Wisconsin Handbook*, §5.1.1.1, available online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>. The agency notified the petitioner of her TFS benefits on July 18, 2012. She did not appeal that notice. She did appeal in January 2013 arguing that her "2-person add request" made in September 2012 was not accounted for by the agency with respect to her FS amount.

The policy on change reporting is this:

The TFS allotment is calculated using the income (less the W2 payment), expenses, and food group size from the month prior to the last W-2 cash payment (benefit determination month). This amount is frozen for the next 5 consecutive months, regardless of the number of months remaining in the most recent certification period for regular FS. A new 12 month certification period will begin when the household reapplies and is eligible for FS at the end of the TFS benefit period.

If a change is reported or becomes known to the agency, the change will acted upon at time of reapplication at the end of the TFS benefit period.

See *FoodShare Wisconsin Handbook*, §5.1.1.2 (emphasis added).

And this:

The food unit has no change reporting requirements during the five-month TFS benefit period. Changes reported and acted upon for other programs will not change the TFS benefit amount.

See *FoodShare Wisconsin Handbook*, §5.1.1.3.

Based on the foregoing, the agency acted correctly when it did not add the two persons to petitioner's TFS, and properly advised petitioner of her benefits.

CONCLUSIONS OF LAW

The agency correctly determined petitioner's TFS for August through December 2012 when it did not act upon a change request that petitioner had two additional persons in her household.

THEREFORE, it is

ORDERED

The petition for review herein 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 11th day of March, 2013

\sKelly Cochrane
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 11, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability