



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/146628

PRELIMINARY RECITALS

Pursuant to a petition filed January 14, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to discontinue FoodShare benefits (FS), a hearing was held on February 6, 2013, by telephone.

The issue for determination is whether the agency correctly closed FS because petitioner failed to file a six-month report form.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Mary Hartung
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for FS in April, 2012 and began to receive FS soon after. Petitioner received FS until November 1, 2012.
3. On August 19, 2012, the agency sent petitioner a notice informing him that he had to complete a review, and a six-month report form was sent as well. Petitioner did not get either document because he had lost his residence; however, he did not report being homeless to the agency.

4. On October 2, 2012, petitioner reported a new address. The case note states that he was informed of the need to do his six-month report by the end of October.
5. By a notice dated October 19, 2012, the agency informed petitioner that FS would end November 1, 2012 because he did not complete his six-month review. The notice was sent to the address reported on October 2, 2012.
6. Petitioner contacted the agency on November 27, 2012. He filed several verification items, but FS was not re-opened because no six-month report was filed.
7. The agency re-opened FS effective February 1, 2013. No six-month report was filed.

DISCUSSION

An FS recipient must do a periodic review to continue eligibility. 7 C.F.R. §273.14. Food units certified for 12 months, and subject to reduced change reporting requirements, are required to submit a six-month report form (SMRF) in the sixth month of the certification period. If a household fails to file a SMRF by the end of the designated month, FS will close. FS Handbook, Appendix 6.1.2.

FS can open without a new application if the SMRF is filed within the month after the date FS close. If FS close and the SMRF is completed in the next month, the FS shall be prorated from the date the SMRF is completed unless the delay is caused by the agency.

In this case petitioner did not file the SMRF by the end of the six month period ending October 31, 2012. The failure to file the SMRF was not due to agency error. The SMRF was sent to the address of record; petitioner did not receive it because he left that residence and did not report being homeless. Although petitioner testified that nobody told him that he needed to complete a SMRF (a statement contradicted by the case note dated October 2, 2012), the agency cannot be blamed for the lack of filing. Furthermore, the notice closing FS was issued to petitioner's new address on October 19, 2012, and he took no action until he called the agency on November 27, at which point the case note discussed BadgerCare eligibility with no mention of FS.

I conclude that the agency correctly closed FS November 1, 2012, and it had no basis to issue FS retroactively when it re-opened petitioner's case for February, 2012. I admit to being uncertain why the agency re-opened FS for February, 2013, but at that point it might have processed a new application (that was unclear at the hearing).

CONCLUSIONS OF LAW

The agency correctly closed petitioner's FS November 1, 2012 because he did not file a required six-month report form, and thus FS could not be issued again until he completed processing requirements for a new application.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 12th day of February, 2013

\sBrian C. Schneider
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 February 12, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability