



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/146766

PRELIMINARY RECITALS

Pursuant to a petition filed January 18, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on February 21, 2013, at Appleton, Wisconsin. The record was held open for 10 days for petitioner to send in documentation he wished to be considered. Nothing was received.

The issue for determination is whether the Department erred in terminating petitioner's FoodShare effective 11/26/12 due to failure to provide requested verification.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Angie Dempewolf

Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. On November 7, 2012, a piece of mail sent to petitioner at his mailing address was returned by the postal service and labeled with a postal service sticker stating "Moved...Left No Address... Unable to Forward."

3. As a result, on November 13 the Department sent a Notice of Proof Needed to petitioner at his last known address. This notice stated that the Department needed a lease or statement from landlord and some indication of the amount due for shelter costs. The Notice stated that the documentation was required by November 23. The notice stated that if the documentation was not received, benefits would be denied, decreased, or ended.
4. Petitioner did not respond.
5. On December 3, 2012, the Department sent a termination notice effective 1/1/13 due to petitioner's failure to provide documentation of residence.
6. Petitioner visited the agency in person on 1/14/13 and his benefits were reinstated effective 1/14/13.
7. Petitioner filed an appeal from the December 3 notice and based on the loss of benefits from 1/1/13 and 1/14/13.

DISCUSSION

The issue for this case is whether the petitioner failed to verify information requested by the county agency under FS rules and policy. When dealing with the issue of the provision of information by a FS household, there is a clearly delineated process and a case may not be denied or discontinued unless those procedures are followed. That process is to specify in writing, what information is needed, and that the client has no less than a specific period of time in which to provide it. Generally that period of time is 30 days. However, the agency is to allow no less than 10 days. Also, the agency is required to assist the client when the client runs into difficulty in obtaining the needed documents. (See 7 C.F.R. §273.2(c)) For FS, the specific requirements may be found at *FoodShare Wisconsin Handbook*, §1.2.1, which states in the parts relevant here, as follows:

1.2.1.2 Request for Verification

Requests for verification MUST be made in writing. Verbal requests are not acceptable and will not stand up in a fair hearing. Workers are required to give the customer notice regarding required verification, when it is due to the agency, and the consequences of not verifying timely.

Do not deny the FS group for failure to provide the required verification until the:

1. 11th day after requesting the verification, or
2. 31st day of the application or review processing period, whichever is later.

1.2.1.3 Responsibility for Verification

The applicant has primary responsibility for providing required verification and for resolving any discrepancies or questionable information. The local agency must assist the applicant in obtaining this verification providing the applicant has not refused to cooperate with the application process.

Here, the Department was justified in questioning residence. Mail to petitioner was returned by the postal service indicating he had moved. The Department was right to seek to establish residence in the state and appropriate county. The agency provided the petitioner with the requisite request for verification by sending to his last known address. The notice clearly stated that benefits could terminate for failure to respond. Petitioner similarly did not respond to the December termination notice. If he had, the termination would not have occurred. But, petitioner's attitude at hearing and, based on testimony also at the agency, was that the agency had somehow erred. They did not. The agency, as administrators of public benefit programs funded by taxpayers, was right to seek to establish that the benefits were properly allotted.

Petitioner claimed that his mail has been mishandled by the post office. It does not matter. The Department did everything it should have done and did not commit any error.

CONCLUSIONS OF LAW

The Department did not err in terminating petitioner's FS effective 1/1/13 based on his failure to provide verification.

THEREFORE, it is ORDERED

That this appeal 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 21st day of March, 2013

\sJohn P. Tedesco
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 21, 2013.

Outagamie County Department of Human Services
Division of Health Care Access and Accountability