



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/147048

PRELIMINARY RECITALS

Pursuant to a petition filed February 1, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Rock County Dept. of Social Services to reduce FoodShare benefits (FS), a hearing was held on February 26, 2013, by telephone.

The issue for determination is whether petitioner can receive FS for her step-daughter in February, 2013.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Sherry Quirk, ES Supervisor
Rock County Dept. of Social Services
P.O. Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner's FS household includes her husband, their four children, and her husband's daughter A.R. from a prior relationship.
3. In January, 2013, petitioner's FS were pending closed because of a verification issue. Coincidentally A.R.'s mother applied for FS for herself and A.R. She presented a court order dated January, 2013 that transferred A.R.'s custody to her. FS were opened for her with A. R. on

her case. Because petitioner's FS were pending closed A. R. was transferred to the mother's case with no alert to petitioner's caseworker.

4. Petitioner's husband got the custody order overturned almost immediately after he was served with it and A.R.'s legal custody was returned to him.
5. A.R. was added back to petitioner's FS case, but only beginning March 1, 2013 because she already received FS on her mother's case for February.

DISCUSSION

Petitioner filed this appeal because she thought both A.R. and her husband were removed from her FS and BadgerCare cases. In fact only A.R. was removed from FS; petitioner's husband remained eligible for both programs on petitioner's case.

FS rules allow a person to receive FS on just one case in a given month. 7 C.F.R. §272.4(e)(1); FS Handbook, Appendix 3.4.1. Because of that rule I cannot order that FS for A.R. be issued to petitioner for the month of February. A.R.'s transfer from petitioner's case to the mother's case was not made by worker error. The worker was presented with a legal court order showing the change in custody and petitioner's case was pending closed, so there was no impediment to the transfer. We know now that the mother obtained the court order through deceit, but that was unknown to the county worker at the time. Fortunately the problem has been resolved and A.R. is back on the correct case, but there is no mechanism that would allow me to order her to receive a second FS allotment for February.

CONCLUSIONS OF LAW

The agency cannot issue FS to petitioner for her step-daughter for February, 2013 because she already received FS on another case in that month.

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 1st day of March, 2013

\sBrian C. Schneider
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 March 1, 2013.

Rock County Department of Social Services
Division of Health Care Access and Accountability