



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/1489 [REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed April 23, 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 May 14, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner’s FoodShare allotment for the months of March and April 2013 has been correctly determined.

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: L. Yang
Milwaukee Enrollment Services
[REDACTED] 1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for FoodShare benefits on March 26, 2012. [REDACTED]

3. Petitioner's FoodShare application was approved. Benefits were initially issued for the month of March in the amount of \$13. Petitioner's allotment for the month of April 2013 was determined to be \$30.
4. During a phone interview for the FoodShare case Petitioner reported that he paid rent for March but was being evicted effective March 30, 2013. The agency subsequently realized that it had made an error in determining the amount of Petitioner's March shelter expense and issued a supplement allotment of FoodShare benefits for March in the amount of \$13.
5. As Petitioner had reported that he would be homeless as of April 1, 2013 no shelter expense was included in the allotment calculation for the month of April 2013.
6. On April 3, 2013 Petitioner reported to the agency that he had obtained a new residence. He also reported his new shelter expense amount. That new shelter expenses included in the allotment calculation for the month of May 2013.
7. Petitioner filed this appeal to contest the amount of his FoodShare allotment for March and April 2013. By the time of the hearing, the auxiliary issuance of \$13 for the month of March had been issued and Petitioner was no longer contesting the March 2013 FoodShare allotment. He does not, however, believe the calculation is correct for April 2013.

DISCUSSION

Petitioner does not think it fair that his FoodShare allotment for the month of April 2013 is not increased to reflect the change in the amount of the shelter expense for April. Nonetheless, a change reported in one month affects the next month benefits not the benefits in the month in which the change is reported:

6.1.3.3 Changes That Cause an Increase in Benefits, Including Person Adds

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification.

If verifications are not received within 10 days, and the FS case is not closed for at least one day, make the change effective the first of the month following the month verifications are received.

Issue the appropriate supplement by the 10th day of the month the increase in benefits is effective.

...

FoodShare Wisconsin Handbook, §6.1.3.3; also see 7 Code of Federal Regulations 273.12(c)(1). ■

There is no dispute here about the date of the reported change. It was April 3, 2013 that Petitioner reported a shelter expense for the month of April 2013. As noted above, this could only impact the FoodShare calculation beginning with the May 2013 benefits.

CONCLUSIONS OF LAW

1. That there is no longer an issue for resolution by the Division of Hearings and Appeals with respect to Petitioner's March 2013 FoodShare allotment.
2. That the agency correctly determined the amount of Petitioner's FoodShare allotment for the month of April 2013 as a change in expenses reported in April 2013 could not impact the FoodShare allotment calculation until May 2013.

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 Milwaukee,
Wisconsin, this 19th day of June, 2013

\sDavid D. Fleming
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 June 19, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability