



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/149405

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 14, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on June 11, 2013, at Milwaukee, Wisconsin. At petitioner's request the record of the June 11<sup>th</sup> Hearing was held open until June 25, 2013.

The issue for determination is whether it was correct to discontinue petitioner's FS effective June 1, 2013.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Katherine May, HSPC  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**OTHER PERSON PRESENT:**

[REDACTED], petitioner's mother

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On May 6, 2013 petitioner completed an FS renewal on-line and inadvertently left the box checked that indicated that she was a full-time student.
3. On May 9, 2013 the County sent petitioner a letter stating that her FS would end June 1, 2013 because she was ineligible as a full-time student.
4. On May 17, 2013 the County contacted petitioner and petitioner stated that she was not a full-time student and would send verification of this.
5. Petitioner attempted to obtain verification but was not able to because she owes the school money and the school will not cooperate.

**DISCUSSION**

The County is required to verify certain factors relating to FS. 7 C.F.R. § 273.2(f)(1) (2011); See also, 7 C.F.R. §§ 273.2(f)(2)(i) & (f)(8)(i)(A) (2011); *Food Share Wisconsin Handbook* ["FS Handbook"] 1.2.6.1. The client has the primary responsibility for providing verification and to resolve questionable information. 7 C.F.R. § 273.2(f)(5)(i) (2011); FS Handbook 1.2.1.3. However, the County must assist the household in obtaining verification and resolving questions as long as the household has not refused to cooperate. *Id.* For a determination of refusal to be made the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take. For example, to be denied for refusal to cooperate a household must refuse to be interviewed, not merely fail to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency must provide assistance. 7 C.F.R. §§ 273.2(d)(1) & 273.2(f)(5)(i) (2011).

The evidence in the record of this matter, as reflected in the above *Findings of Fact*, does not support a conclusion that petitioner has refused to cooperate. For this reason it was not correct to discontinue petitioner's FS effective June 1, 2013.

**CONCLUSIONS OF LAW**

For the reasons discussed above, it was not correct to discontinue petitioner's FS effective June 1, 2013.

**NOW, THEREFORE, it is**

**ORDERED**

That this matter be REMANDED to the County, that the County not discontinue petitioner's FS effective June 1, 2013 for failure to provide verification, and that, within 10 days of the date of this Decision, the County complete processing of petitioner's FS renewal and issue all FS (if any) for which petitioner is otherwise eligible retroactive to June 1, 2013. The 10-day time period in this Order may be extended if additional verification is required from petitioner -- but it may only be extended by the number of days between the time the County requests additional verification in writing and the time petitioner provides

the requested verification to the County. The County must assist petitioner in obtaining verification if necessary.

### **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 3rd day of July, 2013

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\sSean P. Maloney  
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 July 3, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability