



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/149965

PRELIMINARY RECITALS

Pursuant to a petition filed June 13, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Grant County Dept. of Social Services to discontinue FoodShare benefits (FS), a hearing was held on August 28, 2013, by telephone. A hearing set for July 25, 2013 was rescheduled at the petitioner's request.

The issue for determination is whether the county correctly determined petitioner's FS.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Michele Fishnick
Grant County Dept. of Social Services
P.O. Box 447
Lancaster, WI 53813

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Grant County.
2. Petitioner received FS for a two-person household through January, 2013. On January 7, 2013, petitioner reported that she was married. The county requested her husband's income information.

3. By a notice dated January 8, 2013, the county informed petitioner that FS would end effective February 1, 2013 because income was over the limit. The notice informed petitioner that if she disagreed she could appeal by May 3, 2013.
4. In the ensuing months petitioner reported that her husband was laid off or working a number of times. The result was a confusing series of actions concerning petitioner's BadgerCare Plus (BC+) Medical Assistance, but FS were never mentioned.
5. Petitioner filed this appeal on June 13, 2013.
6. Finally on June 23, 2013 petitioner specifically reapplied for FS, and FS were granted beginning that date for a three-person household.

DISCUSSION

An FS household may appeal a negative action concerning FS. Once timely and adequate notice is given to the household, the household must appeal within 90 days of the negative action. 7 C.F.R. §273.15(g); see also Wis. Adm. Code, §HA 3.05(3)(b).

In this case FS closed February 1, 2013. Petitioner did not appeal the discontinuance within 90 days. Until June 23, 2013, she made no request to start her FS again. Instead all actions concerned BC+ and Medicare Part B premium assistance. Because petitioner had no concerns with her current FS issued after the June 23 reapplication, I will dismiss this appeal because I have no authority to go back and review whether the February 1, 2013 discontinuance was correct and whether petitioner could have received FS in the months after that date and prior to her reapplication.

CONCLUSIONS OF LAW

Petitioner's appeal of a FS discontinuance is untimely; the county correctly reopened FS when petitioner reapplied in June, 2013.

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 3rd day of September, 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 September 3, 2013.

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