



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/150214

PRELIMINARY RECITALS

Pursuant to a petition filed June 24, 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 July 23, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner is entitled to replacement FoodShare benefits where her purse and wallet were stolen.

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: Paul Frederickson
Milwaukee Enrollment Services
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 filed this appeal seeking replacement of \$669.98 of FoodShare benefits.
3. On May 21, 2013 \$668 of FoodShare benefits were deposited to Petitioner's Quest card.

4. Petitioner's purse and/or her wallet were stolen on Monday, May 27, 2013 -- this was Memorial Day. The purse/wallet contained Petitioner's Quest card, State ID card and Social Security number. On that same day the PIN number for her Quest card was changed. On that same day the card was used and \$669.98 debited from the card.
5. Petitioner did report the theft to the Milwaukee Police Department on May 27, 2013.
6. On the next business day, Tuesday May 28, 2013 Petitioner reported the loss to the agency.

DISCUSSION

The Wisconsin FoodShare program issues FoodShare benefits to eligible recipients electronically. FoodShare recipients are issued a plastic magnetic swipe QUEST card to use to access their allotted FoodShare benefits at point of sale (POS) terminals in authorized retail food outlets. After the card is swiped through the POS terminal, the recipient enters a four-digit number selected by the cardholder, the PIN. PINs are used along with the Quest card to prevent unauthorized use of the card. A purchase cannot be processed without the correct PIN entry. *CARES Worker Web (CWW) Process Help Ch. 80, §80.1.2.*

The recipient shall report a lost, stolen or damaged card to recipient customer service. Benefits may only be replaced where they used after the report of the loss to FoodShare customer service and/or if lost due to system errors or malfunctions. *CWW, § 80.3.6.* This really means that benefits cannot be replaced unless the loss is the fault of the FoodShare program.

Here Petitioner had apparently left her purse and/or wallet on top of her vehicle while shopping and it fell off or someone took it while she was putting her children in the vehicle. Her identification information was included in that wallet/purse. She did not have a separate password with the account at that time but has set one since and there have been no further losses.

I am not ordering the replacement requested here. The loss was not due to agency error; rather Petitioner did not safeguard the Quest card by keeping identifying information out of the presence of the card or by setting a password for use of the card.

CONCLUSIONS OF LAW

That the agency correctly declined to reissue FoodShare to Petitioner where her Quest card was stolen along with personal identification that allowed someone to change her PIN and then use the card.

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 August, 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 August 19, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability