



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/150385

PRELIMINARY RECITALS

Pursuant to a petition filed June 28, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sheboygan County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on August 15, 2013, at Sheboygan, Wisconsin.

The issue for determination is whether the agency properly terminated the Petitioner's FS benefits effective July 1, 2013.

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: Kris Schmidt

Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. On June 5, 2013, the Petitioner completed a Six Month Report Form. The worker needed verification of the Petitioner's address and employment to verify the Petitioner's report.
3. No written request for verification was issued to the Petitioner.

4. On June 18 and June 20, 2013, the agency issued Notices of Decision to the Petitioner informing her that her benefits would end on July 1, 2013 due to income over the program limit.
5. On June 28, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The agency may request verification to confirm the accuracy of information reported. Requests for verification must be made in writing. Verbal requests are not acceptable. The agency is required to give the customer notice regarding required verification, when it is due to the agency, and the consequences of not verifying timely. If verification is needed the recipient has 10 days to provide verification from the date it is requested. If verification is not returned timely, the FS AG will close. FoodShare Handbook (FSH) § 1.2.1.2, 7 CFR 273.2(c)(5).

In this case, the agency testified that no written request for verification of address or income was sent to the Petitioner. Instead the worker attempted to contact the Petitioner by phone, leaving messages for the Petitioner to return the call. The Petitioner did attempt to return the call but was unable to reach a worker and left a message.

At the hearing, the agency also testified that the case was closed for failure to complete the Six Month Report Form. The notices from the agency indicate that the case was closed for income over the income limit. The Petitioner testified that her employment ended in May, 2013. This was one of the items the worker initially wanted to verify.

The agency did not make a written request for verification and did not give the Petitioner an opportunity to submit verification of her employment status and income. Therefore, the agency did not properly terminate the Petitioner's benefits effective July 1, 2013.

CONCLUSIONS OF LAW

The agency did not properly terminate the Petitioner's benefits effective July 1, 2013.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take all administrative steps necessary to determine if the Petitioner was eligible for FS benefits effective July 1, 2013, including but not limited to providing proper written request for verification of employment status and income, determining the Petitioner's eligibility and proper allotment of FS benefits based on information submitted by the Petitioner in response to the written request, and providing notice of the agency's determination. These actions shall be completed within 10 days of the date of this decision.

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 20th day of August, 2013

\sDebra Bursinger
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 20, 2013.

Sheboygan County Department of Human Services
Division of Health Care Access and Accountability