



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

PACU - 5173, Petitioner

v.

[Redacted] Respondent

DECISION

FOF/150745

PRELIMINARY RECITALS

Pursuant to a petition filed July 19, 2013, under Wis. Admin. Code §HA 3.03, and see, 7 C.F.R. § 273.16, to review a decision by the PACU - 5173 that concluded that Petitioner had intentionally violated FoodShare program regulation, a hearing was scheduled for September 25, 2013, at Milwaukee, Wisconsin. It was not held as Respondent signed a waiver prior to the hearing.

No issue remains for determination by the Division of Hearings and Appeals as Respondent has signed a waiver of the right to a hearing.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Department of Health Services
Division of Health Care Access and Accountability
1 West Wilson Street
Madison, Wisconsin 53703

By: Megan Ryan
PACU - 5173
P.O. Box 8939
Madison, WI 53708-8938

Respondent:



ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Respondent (CARES # [Redacted]) is a resident of Milwaukee County who received FoodShare during the time period of May 1, 2012 through December 31, 2012.

2. Respondent was sent an Administrative Disqualification Hearing Notice dated August 20, 2013 that informed Respondent that a hearing was scheduled for September 25, 2013 at 11:00 AM.
3. Prior to the date of the hearing scheduled for this matter Respondent signed a Waiver of Administrative Disqualification Hearing on August 30, 2013. In signing the waiver Respondent did not admit to the facts but agreed to a 1 year FoodShare disqualification and to repay a FoodShare overissuance of \$2936.00.

DISCUSSION

An IPV is defined at 7 C.F.R. §273.16(c) as intentionally: making a false or misleading statement or misrepresenting; concealing or withholding facts; or committing any act that constitutes a violation of the Food Stamp Act, federal regulations or any Wisconsin statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons or an authorization to participate (ATP) card.

The agency may disqualify only the individual who either has been found to have committed the IPV or has signed a waiver or consent agreement, and not the entire household. If disqualified, an individual will be ineligible to participate in the FS program for one year for the first violation, two years for the second violation, and permanently for the third violation. However, any remaining household members must agree to make restitution within 30 days of the date of mailing a written demand letter, or their monthly allotment will be reduced. 7 C.F.R. §273.16(b).

Here the Respondent signed a waiver giving up the right to a hearing and agreeing to a one year disqualification from participation in the FoodShare program commencing October 1, 2013 and to repay an overissuance of \$2936.00.

CONCLUSIONS OF LAW

That no hearing is required as Petitioner has signed a waiver agreeing to a one year disqualification for the FoodShare program commencing October 1, 2013.

THEREFORE, it is

ORDERED

That Respondent, [REDACTED], is hereby ineligible to participate in the Food Stamp program for a period of one year, effective the first month following the date of receipt 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. See also, 7 C.F.R. sec. 273.16(e)(4) for the specific time limits for claiming good cause for missing the scheduled hearing. 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 26th day of September, 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 September 26, 2013.

PACU - 5173
Public Assistance Collection Unit
Division of Health Care Access and Accountability
megan.ryan@wisconsin.gov