



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/150906

PRELIMINARY RECITALS

Pursuant to a petition filed July 26, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on August 26, 2013, at Madison, Wisconsin.

The issue for determination is whether the Department erred in terminating petitioner's FoodShare (FS) effective 8/1/13 because petitioner did not return the requested SMRF.

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: Bridget Bell

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner had been enrolled in the FS program since at least as far back as August 2012.

3. On May 20, 2013 the Department sent a notice to petitioner at [REDACTED], informing him that he would be required to complete a six month report form (SMRF) if he wished to continue getting FS. The notice provided petitioner with various options as to how to complete that process.
4. On June 24, 2013, the Department sent petitioner another notice to the same address indicating that his six month report was due on July 5, 2013. The mailing also included the form that petitioner could complete and mail back.
5. Petitioner never mailed back the report and did not otherwise complete and process the required report.
6. The Department sent notice to petitioner on 7/8/13 indicating that FS would end on 8/1/13.
7. Petitioner filed an appeal.

DISCUSSION

The Income Maintenance Manual (IMM) provides directives to county agencies which set forth the agency and client responsibilities when processing a FS application or review. The IMM also instructs county agencies to close any FS case which does not complete the required Six Month Report Form (SMRF). IMM, Chapter 1, Part A, 11.1.0. Written notices of requested verification are to be issued and clients are to be assisted in obtaining verification if they have difficulty in obtaining that information. IMM, Chapter 1, Part C, 2.4.0.

In this particular case petitioner failed to timely return his SMRF and therefore the county agency had no choice but to discontinue his FS benefits.

Petitioner's hearing request listed the [REDACTED] address as his correct address. There were two separate mailings to petitioner regarding the SMRF. The first informed him that he should expect that form in the mail in 30 days. The second was the blank form with the deadline of 7/5/13. Petitioner, at the time of hearing, simply stated that he did not see the correspondence. He did not argue that it was not received. Instead he reasoned that his child may have taken it or it may have been misplaced "like last time."

Given that the request and form were sent to the correct address and not returned to the agency as undelivered, I must presume that it was properly delivered. There is no evidence to rebut this presumption. Therefore, the failure to return the SMRF correctly terminated petitioner's FS.

Petitioner is free to apply for FS again if he has not already done so.

CONCLUSIONS OF LAW

The Department did not err in terminating FS because petitioner did not return the SMRF.

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 Madison,
Wisconsin, this 11th day of September, 2013

\sJohn P. Tedesco
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 11, 2013.

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