



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/152249

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 19, 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 October 29, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's FoodShare benefits were correctly denied for lack of verification.

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: Lashun Johnson

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 submitted a six month report form and had a case review in July 2013.

3. As part of the review process the agency sent Petitioner a request for verification of income for herself and her daughter. The request was dated July 10, 2013 and gave Petitioner until July 19, 2013 to provide that verification. It was not received and Petitioner's case closed effective August 1, 2013.
4. On August 6, 2013 Petitioner submitted a change report indicating she herself was no longer physically able to work due to illness or injury. The agency took no action on that change report as the case was already closed.
5. On September 6, 2013 Petitioner contacted the agency via telephone. She was told to reapply for future benefits; there is no information available as to why that phone call was not treated as a request for FoodShare benefits.

### **DISCUSSION**

Requests for verification must be in writing and must tell the individual when it is due and the consequences for failing to provide the information. *FoodShare Wisconsin Handbook (FSH)*, §1.2.1.2; 7 CFR 273.2(c)(5). The individual has the primary responsibility for providing verification but the agency must help if the individual indicates difficulty in obtaining verification. *FSH*, §1.2.1.3; 7 CFR 273.2(f)(5). If all efforts to obtain the verification are unsuccessful for lack of cooperation from the organization from which the verification is sought, then the best available evidence is used; including the oral statement of the applicant. *FSH*, §1.2.1.3. Income is a mandatory item of verification. *FSH*, §1.2.4.1.

Here there is no evidence to show that the requested income information was received. Further, there is no document that the agency was contacted before September 2013 to indicate a problem with obtaining verification. Thus the case closure is sustained.

As an aside, Petitioner did contact the agency on September 6, 2013 to inquire about her FoodShare benefits. *FSH*, §2.1.1.4. She was told to reapply but the phone call itself was not treated as a new request for assistance. At the hearing the agency indicated that September 6 should be the new application date rather than September 26 when Petitioner filed a new paper application. If the agency does not treat September 6 as the new application date, or if that application is denied, Petitioner may again appeal.

### **CONCLUSIONS OF LAW**

That the agency correctly discontinued Petitioner's FoodShare effective August 1, 2013 for lack of verification of income.

**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 15th day of November, 2013

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\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 November 15, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability