



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152336

PRELIMINARY RECITALS

Pursuant to a petition filed September 23, 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 23, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in terminating FS due to petitioner not submitting the required 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: Jose Silvestre
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was a recipient of FoodShare benefits.

3. On June 24, 2013, the Department sent notice to petitioner informing him that a six month report form (SMRF) would be sent to him and would need to be returned to the agency or completed online. The notice informed him that he needed to complete this form to keep getting benefits.
4. On July 22, 2013 the SMRF was mailed to petitioner. It informed him that the SMRF was due by August 5, 2013. Petitioner was instructed to complete the paper copy and return or to complete the form online.
5. On August 19, 2013, the Department sent notice informing petitioner that his FS would end on September 1, 2013 because he had not completed the SMRF.
6. Petitioner completed the form on September 18. Benefits were granted for the period from September 18 to September 30 on a prorated basis in an amount of 86 dollars. Benefits were granted in full for October and onward.
7. Petitioner appealed the termination effective September 1 and the prorated benefits for September.

DISCUSSION

No FS household may participate beyond the expiration of the FS certification period without a determination of eligibility for a new period. 7 C.F.R. § 273.14(a) (2010); FoodShare Wisconsin Handbook ["FWH"] 2.2.1. The only exception is if there is delay through the fault of the State agency. 7 C.F.R. § 273.14(e)(3).

Food units certified for 12 months, and subject to reduced change reporting requirements, are required to submit a SMRF in the 6th month of the certification period. If the FS household fails to return a SMRF FS will close. FWH 6.1.2.

In this case, petitioner received a SMRF but did not complete it or return it to the County. There was not a delay through the fault of the State agency. Therefore, the County was correct to discontinued petitioner's FS effective September 1, 2013.

Petitioner argued that the SMRF and other notices were not sent to his correct address. He states that was out of town at the time and did not get the mail when he returned. He also suggests that the notices were not forwarded to his most recent address.

The record reflects that the agency sent to notices and SMRF to the address on file. Petitioner concedes he was out of town and it appears he had been receiving mail at a friend's where he had been staying previously. Petitioner's absence and the inconsistency of his friend's address as an address to receive critical information by mail is the reason for this lapse. The agency did not err.

CONCLUSIONS OF LAW

The agency did not err in terminating FS on September 1 because petitioner had not completed the SMRF. The case was properly reopened and prorated benefits issued when the SMRF was completed on September 18, 2013.

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 19th day of November, 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 November 19, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability