



FH
[REDACTED]

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

In the Matter of

[REDACTED] J. [REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152611

PRELIMINARY RECITALS

Pursuant to a petition filed October 3, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dodge County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 7, 2013, by telephone.

The issues for determination are whether (1) petitioner's appeal was timely filed, and (2) whether the agency correctly closed the petitioner's FS case effective July 1, 2013.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] J. [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Heather Ehrlich, ES Spec.

Dodge County Department of Human Services
143 E. Center Street
Juneau, WI 53039-1371

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dodge County.
2. On June 20, 2013, the county agency sent a written notice of negative action to the petitioner. That notice advised that her FS case would be closed effective July 1, 2013, due to increased income in the household (due to adding another adult to the FS household).

3. The petitioner filed a hearing request that was mailed to the Division of Hearings and Appeals on Thursday, October 3, 2013, and received thereafter.

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action concerning FS must be filed within **90** days of the date of that action. 7 C.F.R., § 273.15(g). A negative action can be the denial of an application or the reduction or termination of an ongoing case. The petitioner's appeal was filed **94** days after the date of the action. Thus, it was untimely, and no jurisdiction exists for considering the merits of the case.

The petitioner also appealed from an FS overpayment determination. That issue will be decided in a separate decision.

CONCLUSIONS OF LAW

There is no jurisdiction to consider the merits of the case closure, as the appeal is untimely.

THEREFORE, it is

ORDERED

That the petition 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 22nd day of November, 2013

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on November 22, 2013.

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