



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152688

PRELIMINARY RECITALS

Pursuant to a petition filed October 07, 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 November 12, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's auxiliary FS benefits for October, 2013.

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, Room 651
Madison, Wisconsin 53703

By: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On August 20, 2013, the Petitioner applied for FS benefits. Petitioner reported income from unemployment compensation in the amount of \$250/week. Petitioner reported at that time that her unemployment compensation would be ending in September.

3. On August 21, 2013, the agency issued a Notice of Decision to the Petitioner informing her that she would receive \$11 for the month of August, \$30 for the month of September and \$30/month effective October 1, 2013.
4. The Petitioner's final unemployment compensation check was September 9, 2013. On September 13, 2013, the Petitioner started school.
5. On September 9, 2013, the agency issued a Notice of Decision informing the Petitioner that her FS benefits would increase from \$30/month to \$34/month effective October 1, 2013.
6. On October 2, 2013, the Petitioner contacted the agency. She reported her UC benefits ended in September.
7. On October 3, 2013, the agency issued a Notice of Decision informing the Petitioner that her FS benefits would increase from \$30/month to \$490/month.
8. On October 7, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

All reported changes that cause an increase in the FS benefit are effective the first of the month following the report month if required verifications are received within 10 days of the request for verification. FoodShare Manual § 6.1.3.3 and 7 CFR § 273.12(c)(1).

The agency asserts that the Petitioner reported on October 2, 2013 that her UC benefits ended in September. Based on this report, the agency verified the change and re-calculated the Petitioner's FS benefits. Based on the FS regulations cited above, the change was effective November 1, 2013.

The Petitioner testified that she reported on August 20, 2013 that her UC benefits would be ending in September. She also testified that she contacted the agency in September to report that her UC benefits ended. She further testified that she had been told that the system would be auto-updated with the change to her UC benefits.

The agency testified that there was no contact from the Petitioner in September, 2013 and that the report on August 20, 2013 was not sufficient because the benefits had not yet ended. Further, the agency noted that though the system will send an alert when UC benefits end, it is not always timely and it is still the responsibility of the recipient to report the change.

I was able to get a phone transaction summary for the Petitioner's case. Though the actual recordings were no longer available, I was able to see from the summary that the Petitioner had contact with the agency on August 20, 2013, October 2, 2013 and October 7, 2013. According to the summary, there were no contacts in September, 2013.

Based on the evidence presented, I must find that the Petitioner reported the change in UC benefits on October 2, 2013 and the agency properly re-calculated the benefits to be effective November 1, 2013.

CONCLUSIONS OF LAW

The agency properly denied auxiliary FS benefits to the Petitioner for October, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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, Room 651, 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 2nd day of December, 2013

\sDebra Bursinger
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 December 2, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability