



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/152911

**PRELIMINARY RECITALS**

Pursuant to a petition filed October 17, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 12, 2013, at Racine, Wisconsin.

The issue for determination is whether Racine County Department of Human Services correctly terminated Petitioner’s FoodShare benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Dean Landvatter, Fraud Coordinator  
Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Racine County.
2. On August 19, 2013, the agency sent Petitioner a Notice of Proof Needed requesting proof of his living arrangement and household composition by August 28, 2013. The notice further instructed Petitioner to contact Investigator Lucci. (Exhibit 5)

3. On August 29, 2013, the agency sent Petitioner a notice indicating that effective October 1, 2013, his FoodShare benefits would be ending because he failed to provide the requested proof. (Exhibit 6)
4. Petitioner did not provide the requested proof by August 29, 2013. Petitioner did, however, contact Investigator Lucci on September 15, 2013, which resulted in a round of phone tag. Petitioner and Investigator Lucci finally touched base on November 11, 2013, at which time an appointment was made for them to meet on November 13, 2013. (Testimony of Petitioner and Investigator Lucci)
5. Petitioner filed a request for Fair Hearing that was received by the Division of Hearings and Appeals on October 15, 2013. (Exhibit 1)

### **DISCUSSION**

“Requests for verification MUST be made in writing. Verbal requests are not acceptable and will not stand up in a fair hearing. Workers are required to give the customer notice regarding required verification, when it is due to the agency, and the consequences of not verifying timely.” *Wisconsin FoodShare Manual §1.2.1.2, 7 CFR 273.2(c)(5)* In addition, the agency must give the client at least 10 days to supply the requested verification, before closing the client’s case. *FSH §1.2.1.2* The responsibility for supplying verification then rests upon the recipient. *FSH §1.2.1.3*. When requested income verification is not timely received, the agency may correctly close the case. *FSH §1.2.1.2*

In the case at hand, the agency sent Petitioner a notice on August 19, 2013, stating that he needed to provide verification of his household composition by August 28, 2013. This only gave Petitioner nine days to provide the requested verification, not the ten allowed under *FSH §1.2.1.2*. Consequently, the agency did not correctly terminate Petitioner’s FoodShare benefits.

### **CONCLUSIONS OF LAW**

The agency did not correctly terminate Petitioner’s FoodShare benefits.

**THEREFORE, it is**

**ORDERED**

That the agency reinstate Petitioner’s FoodShare benefits, effective October 1, 2013. The agency shall take all administrative steps necessary to complete this task within 10 days of this decision.

### **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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\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 15, 2013.

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