



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/153666

PRELIMINARY RECITALS

Pursuant to a petition filed November 25, 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 February 19, 2014, at Racine, Wisconsin.

There is no issue for determination as the matter appealed, a December 1, 2013 discontinuance of FoodShare benefits, was reversed prior to this hearing.

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: Virginia Chabier

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner filed this appeal to contest a December 1, 2013 discontinuance of his FoodShare benefits. The reason for the discontinuance was that the agency learned that Petitioner had been incarcerated.

3. Petitioner's incarceration was for a few day period in November 2013 and, when the agency learned that Petitioner was no longer incarcerated, it reversed the case closure and restored Petitioner's FoodShare for December 2013. Petitioner's was sent a Notice of Decision dated November 25, 2013 that informed him that the FoodShare case had reopened.
4. As the case closure was reversed after November cutoff (i.e., the date of the automated determination of benefits for the next month), the agency issued Petitioner's December 2013 FoodShare benefits on November 22, 2013. The amount of that allotment was \$6.00.

DISCUSSION

If a person is incarcerated for 30 days that person is ineligible to receive FoodShare benefits. *FoodShare Wisconsin Handbook*, §3.2.1.2.2. Thus the agency correctly reversed the December 1, 2013 discontinuance of Petitioner's FoodShare benefits as he was not incarcerated for more than 30 days.

At the hearing Petitioner insisted that he had not been issued the \$6.00 of FoodShare for December 2013 but the issuance history (Ex # 6) and a supplement to that history that the agency submitted post hearing (Ex # 7) demonstrate that the benefits were deposited to Petitioner's FoodShare electronic benefit card at 12:01 AM on November 22, 2013. Those post hearing records also show that a \$5.00 purchase was made at a Racine area [REDACTED] at 7:56 PM on November 22, 2013 and the remaining balance used on 11/23 at a [REDACTED] in Sturtevant and a [REDACTED] in Kenosha.

Petitioner brought up three other issues at the hearing - the amount of his FoodShare allotment, a Family Care issue and a request that he be compensated in FoodShare benefits for a \$3000 bond posted to secure his release from incarceration. The compensation issue is so far beyond the scope of the public benefit fair hearing/administrative hearing process that I cannot do other than tell Petitioner that there is no such appeal right.

As for the FoodShare allotment amount and the Family Care issue, he is certainly free to file appeals. He claims to have had his mother file a Family Care appeal but I did check the Division of Hearings and Appeals data base and Petitioner has no other appeals pending with the Division of Hearings and Appeals as of the date of this Decision.

CONCLUSIONS OF LAW

That there is no issue for determination by the Division of Hearings and Appeals as to Petitioner's appeal for this case as the agency reversed the case closure that was the subject of this appeal.

THEREFORE, it is

ORDERED

That this matter 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 20th day of February, 2014

\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 February 20, 2014.

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