



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/153882

PRELIMINARY RECITALS

Pursuant to a petition filed December 02, 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 April 10, 2014, at Milwaukee, Wisconsin.

The issues for determination are whether the agency correctly terminated Petitioner’s FoodShare benefits effective October 1, 2013 and whether the agency may back date Petitioner’s benefits to November 1, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Katherine May, HSPC Sr.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. On June 18, 2013, the Petitioner completed an on-line ACCESS application, providing a phone number with a [redacted] area code. (Exhibit 5)

3. On June 19, 2013, the agency withdrew Petitioner's application, because he was already receiving FoodShare benefits and he did not need to take any action at that time. (Exhibit 4 – Case Comments)
4. The agency did not update the Petitioner's phone number. (Testimony of Ms. May)
5. On August 12, 2013, Milwaukee Enrollment Services (the agency) sent Petitioner a notice indicating that he needed to complete a renewal and that he needed to complete a phone interview if he wanted to continue getting FoodShare benefits. (Exhibit 6)
6. On August 27, 2013, the agency sent Petitioner a notice that he had an appointment for a phone interview on September 6, 2013 at 8:00 a.m. and that the agency would call him at a phone number with a [REDACTED] area code. The notice further indicated that the Petitioner should call the agency if he wanted the agency to call him at a different number. (Exhibit 7)
7. On September 6, 2013, the Petitioner did not receive the agency's call. The agency attempted to contact the Petitioner at the [REDACTED] phone number without success. (Testimony of Petitioner; Exhibit 4)
8. On September 18, 2013, the agency sent Petitioner a notice indicating that effective October 1, 2013, his FoodShare benefits would be ending, because he did not complete the renewal process. (Exhibit 8)
9. On November 18, 2013, the Petitioner went to UMOS and completed a new application for FoodShare benefits. (Testimony of Petitioner; Exhibit 4)
10. On November 19, 2013, the agency sent Petitioner a notice indicating that his application was approved and that for November he would receive \$62.00 in FoodShare benefits and that beginning December 2013, he would receive \$145.00 per month in benefits. (Exhibit 9)
11. The Petitioner filed a request for fair hearing that was received on December 2, 2013.

DISCUSSION

DID THE AGENCY CORRECTLY TERMINATE PETITIONER'S FOODSHARE BENEFITS EFFECTIVE OCTOBER 1, 2013?

The certification period for most food units is 12 months. *FoodShare Wisconsin Handbook (FSH) §2.2.1; 7 CFR §273.14(a); 7 CFR §273.10(f)*. In order to continue receiving FoodShare benefits, a recipient must complete an interview and verify current household information in the last month of the certification period. *Id.*

There are several steps to completing the re-certification/review/renewal process:

1. Notification must be sent to the recipient informing him/her that the certification period is ending and that an interview must be conducted if benefits are to continue.
2. An interview must be conducted and the recipient must be notified of verifications required to determine continued eligibility for the program.
3. Certain information gathered at the interview must be verified, and
4. Benefit eligibility must be confirmed in the CARES system in order for the review or recertification to be considered complete.

FSH §2.2.1.3; 7 CFR §273.14(b)

It is undisputed that a phone interview was never completed. The Petitioner argues that it is the fault of the agency that the interview was not completed, because they did not update his phone number.

Petitioner claims that after he received the August 27, 2013 notice, advising him of the September 6, 2013 phone interview, his fiancée called the agency to correct his phone number.

While it is true that the agency did not update the Petitioner's phone number in June 2013, it is also true that the August 27, 2013 notice advised the Petitioner to contact the agency and provide them with a number at which he could be reached. Regrettably, there is no credible evidence in the record showing that Petitioner advised the agency of his phone number between August 27, 2013, the date of the notice of the interview and September 6, 2013, the date of telephone interview.

Petitioner's claim that his fiancée called to correct his phone number after August 27, 2013, is not credible. First, there is no record of this call in the case comments (Exhibit 4). Second, the Petitioner's fiancée did not appear to have any recollection of calling the agency between August 27, 2013 and September 6, 2013. Petitioner's fiancée testified that she only called the agency from UMOS on November 18, 2013, the date the Petitioner reapplied for benefits.

The Petitioner asserts that after receiving the September 18, 2013 notice advising him of the termination of his FoodShare benefits, he went to UMOS on September 22, 2013 to again provide his correct number and arrange for a phone interview. Petitioner's claim is again suspect, since September 22, 2013 falls on a Sunday and it is known to this writer that UMOS is closed on Sundays.

Because Petitioner did not complete the phone interview as required, it is found that the agency correctly terminated Petitioner's FoodShare benefits effective October 1, 2013.

MAY THE AGENCY BACKDATE PETITIONER'S FOODSHARE BENEFITS TO NOVEMBER 1, 2013?

It is undisputed that the Petitioner completed a new application for FoodShare benefits on November 18, 2013. Per *FSH §7.1.1.1*, an initial FoodShare allotment is pro-rated from the application filing date. Thus, the agency correctly started Petitioner's FoodShare benefits from his date of application, November 18, 2013.

CONCLUSIONS OF LAW

1. The agency correctly terminated the Petitioner's FoodShare benefits effective October 1, 2013.
2. The agency correctly denied Petitioner's request to backdate his FoodShare benefits to November 1, 2013.

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, 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 11th day of April, 2014.

\sMayumi M. Ishii
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 April 11, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability