



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/154737

PRELIMINARY RECITALS

Pursuant to a petition filed January 09, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services (MES) in regard to FoodShare benefits (FS), a telephonic hearing was held on February 12, 2014, at Milwaukee, Wisconsin. While the record was held open, the MES representative, Katherine May, sent a February 13, 2014 letter to DHA and petitioner stating that petitioner needed to verify to MES his assets by February 23, 2014 to determine if petitioner is both income eligible (below net income limit) and asset eligible.

The issue for determination is whether there was sufficient reliable evidence in the record to determine whether Milwaukee Enrollment Services (MES) correctly discontinued the petitioner's FS eligibility as of January 1, 2014.

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 senior
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a 72 year old resident of Milwaukee County.

2. The petitioner received \$15 in FoodShare (FS) benefits for a FS household of one for each of the months of November and December, 2013.
3. The petitioner's monthly Social Security increased from \$1,889.90 to \$1,918 as of January 1, 2014.
4. MES sent a December 9, 2013 Notice of Decision to the petitioner stating that his FS benefits would discontinue effective January 1, 2014, due to income above the gross income eligibility limits. See Exhibit 2.
5. The petitioner was above the gross income limit of \$1,916, but petitioner's net income of \$933.52 was below the FS net income limit of \$958 as an elderly person as of January, 2014. As a result, petitioner is income eligible as of January, 2014.
6. While the record was held open, the MES representative sent a February 13, 2014 letter to DHA and petitioner stating that petitioner needed to verify his assets by February 23, 2014 (Sunday) to MES to determine if petitioner is both income eligible (below net income limit) and asset eligible.

### CONCLUSIONS OF LAW

There is insufficient reliable evidence in the record to determine whether Milwaukee Enrollment Services (MES) correctly discontinued the petitioner's FS eligibility as of January 1, 2014 as not financially eligible.

**THEREFORE, it is**

**ORDERED**

The matter is remanded to the petitioner ( [REDACTED] [REDACTED] ) and MES (Attention: Katherine May, HSPC senior) with the following instructions: a) **By February 24, 2014**, petitioner should submit verification of his assets to Katherine May at MES; b) MES will review the petitioner's submitted asset verification; and c) **by March 7, 2014** MES will issue to the petitioner a new notice of decision and any supplemental FS to which he is entitled retroactive to January 1, 2014 for a FS household of one.

### **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 Madison,  
Wisconsin, this 17th day of February, 2014

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\sGary M. Wolkstein  
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 17, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability