



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/155386

PRELIMINARY RECITALS

Pursuant to a petition filed February 06, 2014, 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 March 04, 2014, at Racine, Wisconsin.

The issues for determination are 1) whether Racine County Department of Human Services (the agency) correctly pro-rated Petitioner's November 2013 benefits and 2) whether there is jurisdiction to review the agency's denial of Petitioner's benefits to September 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Rhonda Kramer, Lead Economic Support Specialist
Racine County Department of Human Services
1717 Taylor Ave.
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

INTERPRETER:

Vicki [REDACTED] [REDACTED]

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On September 5, 2013, the Petitioner faxed in an application for FoodShare benefits. (Exhibit 2, pg. 4)
3. On September 25, 2013, the agency sent the Petitioner a notice indicating that her September 5, 2013 application for FoodShare benefits was denied, because she was receiving food stamps in another state. (Exhibit 6)
4. On November 25, 2013, Petitioner's Husband called the agency asking about FoodShare benefits and reported that he last received FoodShare benefits in Florida in October 2013. (Exhibit 2, pg. 2)
5. On November 27, 2013, the agency received a telephonic signature for Petitioner's new FoodShare application. (Exhibit 2, pg. 2)
6. On December 3, 2013, the agency sent Petitioner a notice, indicating that her November 27, 2013 application for FoodShare benefits was approved and that for November she would receive \$26.00 in benefits and that for December 2013 and January 2014, she would receive \$265.00 per month in benefits. (Exhibit 4)
7. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on February 6, 2014. (Exhibit 1)

DISCUSSION

The Petitioner, in her appeal, stated that she believed she should receive FoodShare benefits for the entire month of November, instead of the pro-rated amount of \$26.00 that she did receive.

It is the agency's position that the filing date for Petitioner's application is November 27, 2013, because that is when the agency received a telephonic signature for Petitioner's application. As such, that is the date from which her benefits would begin.

FoodShare Wisconsin Handbook (FSH) §2.1.1.4 states that the filing date for an application is the date the agency receives one of the following things:

1. A signed signature page printed from CARES during the client registration process
2. A signed 1-page application registration form
3. A signed FoodShare Wisconsin Application form
4. A signed faxed registration and/or application form
5. A request is made and a telephonic signature is provided

The case comments (Exhibit 2) indicates that the telephonic signature was not obtained until November 27, 2013. There is no indication in the record that any other signed application or registration form was provided to the agency prior to November 27, 2013. As such, per *FSH §2.1.1.4*, the agency correctly determined the filing date to be November 27, 2013.

"An initial FoodShare allotment is pro-rated from the application filing date, unless the pro-rated initial allotment amount is less than \$10. Initial allotment of less than \$10 are not issued." *FSH §7.1.1.1* Because Petitioner's filing date was November 27, 2013, her FoodShare benefits for November 2013, would be pro-rated from November 27, 2013, per *FSH §7.1.1.1*. Thus, the agency correctly pro-rated Petitioner's benefits and issued a FoodShare allotment of \$26.00 for November 2013.

At the hearing, the Petitioner's husband argued that benefits should have been prorated back to September 2013. Regrettably, that issue needed to be appealed within 90-days of the September 25, 2013 notice. *See 7 CFR 273.15(g) FSH) §6.4.1*

As such, the appeal deadline was December 26, 2013. This was clearly stated in the September 25, 2013 notice. Petitioner's appeal was not filed until February 6, 2014, well past the appeal deadline. As such, any

appeal of the September 25, 2013 denial of Petitioner’s FoodShare application is untimely and no jurisdiction exists to consider her appeal of the September 2013 denial of FoodShare benefits.

CONCLUSIONS OF LAW

- 1) The agency correctly pro-rated the Petitioner’s November 2013 benefits.
- 2) There is no jurisdiction to review the denial of Petitioner’s September 2013 application for benefits.

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 25th day of March, 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 March 25, 2014.

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