



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/155608

PRELIMINARY RECITALS

Pursuant to a petition filed February 14, 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 13, 2014, at Racine, Wisconsin.

The issue for determination is whether evidence is sufficient to demonstrate that Petitioner's case was correctly closed for lack of a completed review and reopened with the correct date and prorated benefits.

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: Rhonda Kramer
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's FoodShare case was subject to review in January 2014.
3. Petitioner was sent a Notice informing him that a reviewed of his FoodShare case had to be completed by January 31, 2014.

4. Petitioner's was sent a notice dated January 6, 2014 that informed him that a review interview was scheduled for January 17, 2014. A notice dated January 13, 2014 was sent to Petitioner that also informed him of the January 17, 2014 appointment.
5. Petitioner was sent a Notice of Decision dated January 17, 2014 that informed him that his FoodShare case was closing effective January 31, 2014 for lack of the required review. It also told him that if he wanted to continue to receive FoodShare he should contact the agency before the end of the month.
6. Petitioner came to the agency on February 12, 2104 to inquire as to why he did not get his February 2104 FoodShare allotment. The review was completed that day and his FoodShare case reopened as of that day with prorated benefit issued for February 2014.

DISCUSSION

FoodShare recipients must complete an interview and verify current household information in the last month of the certification period in order to be recertified and to continue to receive FoodShare benefits. *FoodShare Wisconsin Handbook (FSH)*, §2.2.1.; 7 CFR §273.14. Failure to complete a review results in the closing of the case. If the review is not completed until after the case is closed because of household error or inaction, the FS are not issued in full. Instead, the case is treated as a new application, and benefits are to be prorated as of the date of the review. 7 CFR §273.14(e)(3); *FSH*, §2.2.1.4.

The following is applicable here:

There are several steps to completing a recertification (review) for FS cases:

1. Notification must be sent to the recipient informing him/her that the certification period is ending and an interview (2.1.3) 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 (1.2.1).
4. Benefit eligibility must be confirmed in CARES (2.1.9) in order for the review or recertification to be considered complete.
FSH, §2.2.13.

Further,

...

FS that close at recertification may reopen without requiring a new application under specific conditions. Allow FS to reopen at recertification if the requested action to resolve ineligibility is completed in the month following the end of the current certification period, as long as the interview was timely.

- An interview must be completed within the review month of the current certification period to be considered timely. If the HH fails to complete a timely interview, FS will close effective the last day of the review month at adverse action and a new FS application is required.
- If FS close for lack of verification after a timely review and the household takes the required action within the calendar month following the certification period, the agency shall reopen FS and prorate benefits from the date the household took the required action. The new certification period will begin the month after the month the review was due.

- If FS close for lack of signature after a timely review and the household returns the signature page within the calendar month following the certification period, the agency shall reopen FS and prorate benefits from the date the household returns the signature page. The new certification period will begin the month after the month the review was due.
- If FS close due to agency delay in scheduling the interview or the HH is not available to complete the interview until the end of the review month, benefits shall be restored back to the first of the month to ensure ongoing benefits, as long as verification is timely.
FSH, §2.2.1.4.

Here, Petitioner had an opportunity to complete the review before the end of January 2014. He did not contact the agency until February 2014. Thus the agency correctly discontinued FoodShare as of the end of January 2014 but reinstated those benefits as of the date of the completion of that required review.

CONCLUSIONS OF LAW

That the agency correctly closed Petitioner's FoodShare case for lack of a completed review and reopened with the correct date and prorated benefits upon the completion of the review.

THEREFORE, it is

ORDERED

That the appeal 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 14th day of April, 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 April 14, 2014.

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