



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/155776

PRELIMINARY RECITALS

Pursuant to a petition filed February 28, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a telephonic hearing was held on March 26, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services Center (MES) met its burden of proof to establish that it correctly and accurately determined the petitioner's FS benefits retroactive to January, 2014.

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: Pang Thao-Xiong, IM advanced
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 resident of Milwaukee County who resides with her two grandchildren.
2. The petitioner receives FoodShare (FS) benefits for a household of three.

3. Milwaukee Enrollment Services (MES) sent January 24, 2014 and February 10, 2014 notices to the petitioner stating that petitioner's FS benefits would discontinue effective March 1, 2014 due to failure to timely provide verification to MES or excess income.
4. During the March 26, 2014 hearing, MES representative, Pang Thao-Xiong, agreed that the hearing information was incomplete, as MES had not yet reviewed and determined the petitioner's medical expense deduction retroactive to January 1, 2014. Such deduction needed to be calculated in determining petitioner's FS eligibility and benefits as of January, 2014.
5. The petitioner faxed her medical expense deductions to MES on January 7, 2014 and was received by MES that day.
6. During the hearing, both parties agreed that this case should be remanded to MES to re-calculate the petitioner's FS benefits retroactive to January, 2014, issue a new notice of decision to petitioner, and issue any supplemental FS benefits to which the petitioner is entitled retroactive to January, 2014.
7. The MES representative sent an April 3, 2014 detailed, updated summary to DHA. In that summary, MES indicated in its preliminary determination that after applying petitioner's medical bills toward her FS excess medical expense deduction, MES would send about \$815 in total FS supplemental benefits to petitioner for the period of January, 2014 to April, 2014.

DISCUSSION

During the March 26, 2014 hearing, the MES representative agreed that MES did not properly process the petitioner's medical expenses faxed to MES on January 7, 2014 in determining her FS benefits. As a result, the hearing record indicates that MES did not correctly discontinue the petitioner's FS effective March 1, 2014, due to not timely providing verification or excess income.

In any discontinuance, reduction, or calculation of benefits, the county agency has the burden of proof to establish that it correctly and properly discontinued or calculated the recipient's FS benefits. During the hearing, both parties agreed that this case should be remanded to MES to re-calculate the petitioner's FS benefits retroactive to January, 2014, issue a new notice of decision to petitioner, and issue any supplemental FS benefits to which the petitioner is entitled retroactive to January, 2014. Accordingly, for the above reasons, Milwaukee Enrollment Services Center (MES) failed to meet its burden of proof to establish that it correctly and accurately determined the petitioner's FS benefits retroactive to January 1, 2014.

Both parties agreed that if petitioner disagreed with the re-calculation of her FS benefits retroactive to January, 2014, she must file a new hearing request specifically stating what she disputed in the re-calculation of her FS benefits and attaching a copy of that new notice to her appeal letter.

CONCLUSIONS OF LAW

1. Milwaukee Enrollment Services did not meet its burden of proof to establish a prima facie case to establish that it correctly and accurately determined the petitioner's FS benefits retroactive to January 1, 2014.
2. Based upon petitioner's January 7, 2014 submission of her medical expenses to MES, Milwaukee Enrollment Services needs to re-calculate petitioner's FS household income for a household of three retroactive to January 1, 2014, and issue to the petitioner an updated notice of decision and any supplemental FS benefits to which she was entitled retroactive to January, 2014.

THEREFORE, it is

ORDERED

The matter is remanded to Milwaukee Enrollment Services with instructions to: a) review petitioner's January 7, 2014 submission of her medical expenses to MES and re-calculate petitioner's FS benefits for a household of three retroactive to January 1, 2014, and b) issue to the petitioner an updated notice of decision and any supplemental FS benefits to which she was entitled retroactive to January, 2014 within 10 days of the date of this Decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 18th day of April, 2014

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 18, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability