



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/156142

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed March 19, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on April 15, 2014, by telephone.

The issue for determination is whether petitioner is entitled to have FS replaced after reporting her card being stolen.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Jose Silvestre, Tammy Jo Keen  
Milwaukee Enrollment Services  
1220 W. Vliet St.  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 19, 2014 petitioner reported to the agency that her FS card was lost or stolen on March 12. The agency reviewed the situation and found that the card had been utilized three times between March 13 and March 19. The agency informed petitioner that the FS used in those three transactions could not be replaced.

### DISCUSSION

Beginning in 1999 the department began to provide an EBT card to FS recipients. The card allows the FS group to access FS benefits through the EBT account instead of using paper documents. See Wis. Admin. Code, §DHS 252.04(1).

In order to access the EBT account, each FS recipient receives a personal identification number (PIN) number. Also, identifying information such as Social Security number, date of birth, and mother's maiden name are generally needed in order to change the EBT PIN number, and the benefits cannot be used without the PIN number. Information about a person's PIN number should not be made available to anyone other than the user of the card.

Wis. Admin. Code, §DHS 252.18 discusses liability for lost FS benefits and provides in pertinent part:

**Liability for lost benefits.** Benefits will not be replaced if lost as a result of the loss or theft of the EBT card and PIN up to the point in time that the recipient reports the loss to recipient customer service. Benefits will not be replaced if lost due to fraud committed, in total or in part, by the recipient. The department shall assure the replacement of benefits lost after the recipient or representative reports to recipient customer service that the card has been lost or stolen. The department also shall assure the replacement of benefits that are lost due to system errors or malfunctions.

The first report of a lost card in the agency's record was made on March 19, 2014. Petitioner testified that she called in the early morning hours of March 13, within a couple hours of noticing her lost card, and was told that the matter would be taken care of. However, there is no record of that call.

I asked petitioner if she could obtain her cell phone records to show she made the call. Nothing was received.

Petitioner also testified that she spoke with a supervisor named ██████ at the EBT center, and that ██████ admitted that the call was made and the problem rectified. I asked Ms. Keen to contact the supervisor after the hearing, and she reported later that ██████ denied any such conversation with petitioner. She also reported after the hearing that petitioner told her the cell phone company would release records only if the judge issued a subpoena. Petitioner has the burden of proving that she made the call in light of the agency records showing no contact until March 19. It makes no sense that her own phone company would not provide her records of her calls without a subpoena from an administrative agency.

I conclude that petitioner did not prove that she called the agency to report the lost card until March 19, 2014. Under state law any FS used prior to March 19 cannot be reissued to petitioner.

### CONCLUSIONS OF LAW

FS used on petitioner's FS card prior to March 19, 2014 cannot be reissued because petitioner did not report that her card was lost until that date.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby dismissed.

**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 25th day of April, 2014

---

\sBrian C. Schneider  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 25, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability