



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/157353

PRELIMINARY RECITALS

Pursuant to a petition filed May 1, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Brown County Human Services in regard to FoodShare benefits (FS), a hearing was held on May 28, 2014, by telephone.

The issue for determination is whether petitioner failed to complete her FS review timely.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Stacy Linzmeier
Brown County Human Services
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner receives BadgerCare Plus (BC+) Medical Assistance and FS. In January, 2014, petitioner was informed that she had to complete a BC+ renewal, which she filed in early February. The county requested verification of items including income.
3. Also in January the county informed petitioner that she had to complete a six-month report form (SMRF) for FS. Due to confusion with the BC+ renewal petitioner did not file the SMRF.

4. On February 25, 2014, the agency notified petitioner that FS and BC+ would end April 1, 2014 because she had not provided required verification. At that time petitioner was completing her self-employment tax returns and they had not yet been filed.
5. On March 21 petitioner contacted the agency call center concerning her eligibility. She was told to drop off her tax return as soon as she completed it.
6. On March 24, 2014, the agency sent petitioner a notice telling her that her daughter was enrolled in BC+ for April, but that petitioner's BC+ was denied along with FS for the household because the renewal and SMRF were not completed.
7. On April 3 petitioner called the call center and asked what was needed. The call center worker was focused on BC+ and reported that nothing was needed. On April 15 petitioner had another contact with the agency and was told to send in her completed 2013 taxes. In none of the calls was the lack of the SMRF mentioned.
8. On April 24 petitioner called to inquire about the FS. She was told that she needed to file the SMRF. She did so on April 25 and FS were reopened at the minimum \$15 per month beginning May 1, 2014, but nothing was issued for April because the prorated amount, from April 25, were too low to issue an allotment.

DISCUSSION

An FS recipient must do a periodic review to continue eligibility. 7 C.F.R. §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 C.F.R. §273.14(e)(3); FS Handbook, Appendix 2.2.1.4.

Under current FS rules, there is no good cause exception for missing a review. The only way FS can be backdated to the termination date is if the review was not completed due to agency error.

In normal circumstances the decision here would be clear. Petitioner received a blank SMRF to file for FS and she did not do so until April 25, 2014. However, this is not a normal situation. When petitioner filed her BC+ renewal she provided the same information included on a SMRF. When she called to ask about the case status, she was told that everything was pending, but the workers were focusing on the BC+ renewal, not the FS. Under these unique circumstances I find that petitioner is entitled to her April FS due to an agency error of failing to tell her that the SMRF had to be filed separately from the BC+ renewal.

CONCLUSIONS OF LAW

Petitioner did not file her FS SMRF timely due to confusion within the agency with a concurrent BC+ renewal.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to issue petitioner's full April, 2014 FS allotment within 10 days 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 30th day of May, 2014

\sBrian C. Schneider
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 May 30, 2014.

Brown County Human Services
Division of Health Care Access and Accountability