



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/157378

PRELIMINARY RECITALS

Pursuant to a petition filed May 01, 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 hearing was held on May 28, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly determined the sufficiency of the petitioner's FS allotment pro-rata for the month of April, 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: Simone Johnson
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. He is the casehead of a FS household.
2. On February 20, 2014, the Department issued a Six Month Report Form to the petitioner, with a due date of March 5, 2014.

3. On March 19, 2014, the Department issued a Notice of Decision informing the petitioner that his FS would be discontinued, effective April 1, 2014, because he had not submitted the Six Month Report Form.
4. On April 1, 2014, FS was discontinued.
5. On April 15, 2014, the petitioner submitted a completed Six Month Report Form to the Department. Effective that date, the agency restored the household's FS eligibility and issued pro-rated FS for the remainder of April to the petitioner.
6. On May 1, 2014, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the agency action to only issue FS pro-rata from April 15-30, 2014, because of the SMRF filed after discontinuance was effective on April 1, 2014.

DISCUSSION

The petitioner admits the SMRF was submitted late. There is no exception under law for these circumstances. Rather FS regulations and policy direct that FS is restored pro-rata effective the date in the month utilized by the agency here on which the SMRF was filed.

To be considered timely, a **SMRF** must be returned to the local agency by the 5th day of the process month (month 6) If the HH fails to return a timely **SMRF**, FS FoodShare will close effective the last day of the process month at adverse action.

If verification is needed the recipient has 10 days to provide verification from the date it is requested. If verification is not returned timely, the FS AG will close. A FS AG closed prior to the end of the report month may reopen for month 7 without a new application if requested verification is received prior to the end of month 7. Benefits will be prorated from the date all **SMRF** requirements are met.

See, *FoodShare Wisconsin Handbook*, §6.1.2; and see also, 7 C.F.R. § 273.12(a)(5)(iii)(D).

CONCLUSIONS OF LAW

The agency correctly determined the sufficiency of the petitioner's FS allotment for April, 2014.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby is, 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 9th day of June, 2014

\sKenneth D. Duren, Assistant Administrator
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 June 9, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability