



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/157880

PRELIMINARY RECITALS

Pursuant to a petition filed May 27, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on June 19, 2014.

The issue for determination is whether it was correct to discontinue petitioner's FS effective on May 1, 2014.

There appeared at that time via telephone 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, Income Maintenance ["IM"] Specialist Advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County, Wisconsin.

2. On March 17, 2014 petitioner telephoned MiLES and was informed when her Six-Month Report Form ["SMRF"] was due and how to complete.
3. On March 24, 2014 MiLES sent petitioner a SMRF to complete as part of the FS recertification process; the SMRF was due April 5, 2014.
4. On March 28, 2014 petitioner told MiLES that she did receive the paper SMRF in the mail.
5. MiLES discontinued petitioner's FS effective May 1, 2014 because it never received the completed SMRF back from petitioner.
6. On May 15, 2014 petitioner contacted MiLES and provided a new mailing address; MiLES reopened petitioner's FS effective May 15, 2014 and pro-rated FS for the month of May 2014.

DISCUSSION

No FS household may participate beyond the expiration of the FS certification period without a determination of eligibility for a new period. 7 C.F.R. § 273.14(a) (2014); *FoodShare Wisconsin Handbook* ["FWH"] 2.2.1. The only exception is if there is delay through the fault of the State agency. 7 C.F.R. §§ 273.14(a) 7 (e)(3) (2014). In this case, the delay was not through the fault of the State agency. As per *Case Comments* petitioner received the SMRF -- but she did not return it in a timely manner.

Petitioner argues that her mailbox is broken and that she was not receiving all of her mail. This may be correct, but she did receive the SMRF and failed to return it in a timely manner. Further, as per *Case Comments*, on March 17, 2014 petitioner telephoned MiLES and was informed when her SMRF was due and how to complete.

Finally, petitioner argues that MiLES should have telephoned her. In situations such as this MiLES is not required to telephone.

CONCLUSIONS OF LAW

For the reasons discussed above, whether it was correct to discontinue petitioner's FS effective on May 1, 2014.

NOW, 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 26th day of June, 2014

\sSean P. Maloney
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 26, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability