



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/157885

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 21, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on June 18, 2014, at Madison, Wisconsin. At the request of the county agency, the record was held open for 10 days for the submission of additional information.

The issue for determination is whether the county agency correctly discontinued the petitioner's FS effective June 1, 2014, due to her failure to complete a re-certification review before the end of the certification period.

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: Ashley Scofield, IM Worker  
Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

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

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County. She was receiving FS in at least April, 2014. Her certification period was due to expire on May 31, 2014.

2. On April 1, 2014, the agency mailed a request for information to the petitioner at the address she provided of [REDACTED]. It appears the petitioner did not receive this letter.
3. On April 10, 2014, the agency mailed a letter notice to the petitioner to [REDACTED], informing her that she was scheduled for a telephone re-certification review set for April 21, 2014, at 1:00 P.M. It appears the petitioner did not receive this letter.
4. On April 11, 2014, the agency issued a Notice to the petitioner informing her that her MA would be denied because she had not returned the information requested on April 1, 2014.
5. On April 11, 2014, the agency issued a 45 day notice of renewal to the petitioner informing her that her certification period for FS would end effective May 31, 2014, and she needed to complete a renewal. The petitioner received this letter notice because she mailed a letter on April 18, 2014, to the agency indicating that she desired to complete her renewal in person.
6. The agency received the April 11, 2014, letter from the petitioner but did not change the appointment date of April 21, 2014, because a recipient can attend it in person or by phone.
7. On April 21, 2014, at the appointed time for the review, the county agency worker tried to call the petitioner at both phone numbers of record, i.e., the petitioner's mother's phone, and her brother's phone; but could not reach her. In addition, the petitioner did not appear in person on that date for the review at 1:00 P.M. or otherwise.
8. On May 19, 2014, the agency again issued a Notice to the petitioner informing her that her FS would be terminated, effective June 1, 2014, if she did not complete a review before that date. The petitioner apparently received this Notice because on May 21, 2014, she mailed an appeal request to the Division contesting the discontinuance of her Kinship Care benefits and "child support" by the agency.
9. On May 27, 2014, the petitioner's appeal was actually received by the Division. On May 29, 2014, the petitioner called the Division and spoke with program assistant [REDACTED], who noted that "PTR CALLED - STATED EVERYTHING IS ENDING, SHE DOESN'T HAVE KINSHIP, BUT HER CHILD SUPPORT IS BEING TAKEN. SUBMITTED REQUESTS FOR FS & MA." FS benefits were continued pending the hearing, unless the certification period had ended. Which it had.
10. Also on May 29, 2014, the petitioner appeared without an appointment at the Brown County agency and requested an immediate face-to-face re-certification review from her assigned worker. Her worker was alerted by intake staff and came out to ask the petitioner if she wanted to do a face-to-face interview now, but the petitioner said she "did not have the time right now to do her renewal.". The worker then asked if she could do it the next day, on May 30<sup>th</sup>, to which the petitioner replied "call me at the number left at the front desk tomorrow and leave a message if I don't answer si I can try to (word missing here) to the appointment." She then entered the elevator before the agent could confirm the time, and stated "it is your problem, not mine", and left.
11. The worker then, on that same day, set up an appointment for May 30, 2014, at 10:00, and sent a letter of this appointment even though there was no way it would arrive in one day to the petitioner.
12. The petitioner was not available at the phone number she provided when the worker called at 10 and again at 10:10 A.M. The petitioner did not call back at any time.

### DISCUSSION

The petitioner was at the offices of the county agency on May 29<sup>th</sup>, 2014, just before the end of her certification period on May 31, 2014. She appeared without an appointment and requested a face-to-face interview for FS re-certification. She, along with other customers, had to wait. When her worker was able to service her, the petitioner walked to the elevator and left the agency, informing her worker that she could not wait and, "It was your problem, not mine".

There was much discussion about what mail the petitioner received in April, 2014, about the review, but it is clear that she knew the agency threatened to terminate her FS at the end of May, 2014, due to a dispute about information it required. See, "Request for Fair Hearing" dated June 4, 2014. She noted, "I received a letter's (sic) stating my benefits were ending in May."

This will not do. A FS recipient is required to cooperate with the agency in administration of her benefits. 7 C.F.R. § 273.2(d)(1). The events of May 29, 2014, clearly evince a refusal to cooperate, and a failure to complete her re-certification review by the end of the certification period on May 31, 2014. Benefits do not continue after the end of a certification period without a review having been completed. *Ibid*. This failure is on the petitioner. Her only excuse is that her teen son was at the library waiting for her and she could not trust him alone any longer. I find this excuse self-serving, evasive, convenient, uncorroborated and not credible. The petitioner was aware on at least May 21, 2014, that her case was closing on June 1, 2014, due to the need for an interview, and yet, even when at the agency and offered service without appointment, she *chose* to leave the agency on May 29, 2014, and to refuse to confirm an appointment for May 30<sup>th</sup> either. This is public assistance paid by the taxpayers of this state and nation. A recipient must cooperate with the administrative agencies or suffer the consequences of their own folly. The agency action to discontinue the petitioner's FS effective June 1, 2014, is sustained. The petitioner may re-apply at any time.

### **CONCLUSIONS OF LAW**

That the county agency correctly discontinued the petitioner's FS effective June 1, 2014, because she did not complete a re-certification review before the end of her certification period.

**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 25th day of June, 2014

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\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 25, 2014.

Brown County Human Services  
Division of Health Care Access and Accountability