



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158149

PRELIMINARY RECITALS

Pursuant to a petition filed June 6, 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 July 2, 2014, by telephone.

The issue for determination is whether petitioner reported a change in May, 2014.

PARTIES IN INTEREST:

Petitioner:



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Respondent:

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

By: Jose Silvestre, Jr.
Milwaukee Enrollment Services
1220 W. Vliet Street
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. Petitioner received \$413 in FS in May, 2014, based upon income from [redacted] [redacted]. On May 12, 2014 petitioner filed an on-line change report saying that she was unable to work due to illness of injury. The agency initially took no action because it appeared that petitioner was reporting that she was physically disabled, and there was no distinct report that petitioner was off work.

3. The agency requested verification of the change. On approximately May 23, petitioner brought some verification into the agency but was told that additional information was needed. The worker gave the documents back to petitioner and no case note was generated.
4. On June 6 petitioner presented verification that she was on medical leave from [REDACTED] since May 7. The agency removed the [REDACTED] income from petitioner's FS budget and informed her that FS would increase to \$632 effective July 1, 2014. Petitioner then filed this appeal seeking the increase to be effective June 1.

DISCUSSION

If a person reports a change that will result in increased FS, the general rule is that the increase will take place in the month after the change is reported. 7 C.F.R. §273.12(c)(1). The FS Handbook, Appendix. 6.1.3.3, requires:

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification.

The FS rules require changes to be made in the month after the change is reported, not the month that the change occurs.

The agency denied the increase for June because the change report stated only that petitioner was disabled, not that she was off work. Petitioner testified that the on-line change report did not provide her an option of "on medical leave from work," and she therefore checked the closest box she could find. In fact she did check that she was unable to work due to illness, so technically her entry was correct. Petitioner testified that she tried to verify the medical leave in late May but was told the document she brought was insufficient because it did not say the leave was unpaid.

I conclude that petitioner reported the change in May and although she did not verify it by the deadline she attempted to do so and should have received an extension to complete the verification. Therefore she should receive the increased FS for June, 2014. Since she received \$413, and the increase would have been to \$632, the supplement should be \$219.

CONCLUSIONS OF LAW

Petitioner reported her employment leave of absence in May, 2014 and verified it appropriately; she thus should have received increased FS for June, 2014.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to issue petitioner supplemental FS of \$219 for the month of June, 2014, 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 3rd day of July, 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 July 3, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability