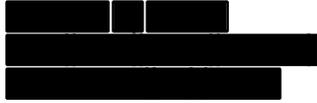




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158167

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 completed a review timely.

PARTIES IN INTEREST:

Petitioner:



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 # ) is a resident of Milwaukee County.
2. Petitioner receives FS as a one-person household. He was scheduled to complete a review by the end of March, 2014.
3. On January 20, 2014, the agency sent petitioner notice that he had to complete a six-month review.

4. On February 20, 2014, the agency sent petitioner a second notice with a blank six-month review form (SMRF), telling petitioner that he had to file the SMRF by March 5, 2014.
5. When the SMRF was not returned, the agency sent petitioner a notice dated March 19, 2014, telling him that FS would end April 1, 2014.
6. All notices were sent to the correct address.
7. Petitioner submitted the SMRF on April 14, 2014, and FS were opened effective that date. Petitioner filed this appeal seeking to have the FS backdated to April 1.

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.

Petitioner testified that he received none of the notices sent to him. The notices were sent to the correct address, however, and that is the same address that petitioner used for this appeal.

Under current FS rules, there is no good cause exception for missing the review. The only way FS can be backdated to the termination date is if the review was not completed due to agency error. In this case the agency handled the review process correctly. I therefore must conclude that it correctly reopened FS as of the date the SMRF was filed.

CONCLUSIONS OF LAW

The agency correctly prorated April, 2014 FS because petitioner missed his six-month review due by the end of March, and did not file the form until April 14, 2014.

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 7th 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 7, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability