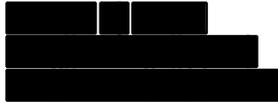




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158213

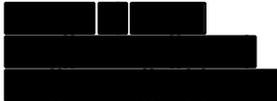
PRELIMINARY RECITALS

Pursuant to a petition filed June 10, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Dane County Dept. of Human Services in regard to FoodShare benefits (FS), a hearing was held on July 17, 2014, by telephone.

The issue for determination is whether the county correctly determined petitioner's FS after she signed an Administrative Disqualification waiver.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Patricia Porto-Sanchez
Dane County Dept. of Human Services
1819 Aberg Avenue
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Dane County.
2. On June 5, 2014, petitioner signed an Administrative Disqualification waiver. That meant that she would be ineligible for FS, and only her three children would be eligible effective July 1, 2014.
3. By a notice dated June 16, 2014, the county informed petitioner that she would receive \$0 in FS for the three children as of July 1, 2014. Petitioner filed this appeal.

4. By a notice dated June 23, 2014, the county changed the FS for July to be \$73, the amount remaining after a recoupment.
5. The county restored the FS to the June amount (\$150) due to petitioner filing the appeal.

DISCUSSION

Under 7 C.F.R. §273.16, a person who commits an intentional program violation is disqualified from receiving FS. The agency may disqualify only the individual who either has been found to have committed the IPV or has signed a waiver or consent agreement, and not the entire household. If disqualified, an individual will be ineligible to participate in the FS program for one year for the first violation, two years for the second violation, and permanently for the third violation. However, any remaining household members must agree to make restitution within 30 days of the date of mailing a written demand letter, or their monthly allotment will be reduced. 7 C.F.R. §273.16(b).

When petitioner signed the waiver, she agreed to be disqualified from the FS group. That is the action that occurred in June. Effective July 1, the county also because to reduce the monthly allotment to recover the overpayment.

The county took the correct action following the signing of the waiver. The one error was that initially the county told petitioner she would receive \$0 in FS. The household actually was entitled to \$124 FS, from which \$51 was recouped, leaving \$73.

CONCLUSIONS OF LAW

The county correctly determined FS for July, 2014 after petitioner signed a Disqualification waiver.

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 18th day of July, 2014

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 18, 2014.

Dane County Department of Human Services
Division of Health Care Access and Accountability