



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/158401

PRELIMINARY RECITALS

Pursuant to a petition filed June 16, 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 15, 2014, by telephone.

The issue for determination is whether petitioner can have his April, 2013 FS returned to his account.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Simone Johnson
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 applied for FS in April, 2013. He submitted the agency's homeless address as his mailing address. The agency issued \$260 expedited FS and sent an FS card to the mailing address.
3. Petitioner did not complete the application process or pick up his mail. The application was denied and no additional FS were issued.

4. On June 26, 2013, February 26, 2014, and March 12, 2014, the agency sent notices to petitioner saying that his FS may be lost if not used within 365 days from issuance. The notices were sent to the homeless address.
5. On April 14, 2014, the agency sent petitioner a notice at his current address telling him that he had to use the FS by April 28, 2014 or they would be lost.
6. Petitioner contacted the agency in June, 2014 to request reissuance of the FS. The request was denied.

DISCUSSION

FS benefits are issued by Electronic Benefit Transfer (EBT). DHS Process Help Manual, found at <https://prd.cares.wisconsin.gov/help/>. The Department allows FS benefits to be available up to 365 days from their issuance. After 365 days the unused benefits are expunged from the EBT system. Process Help, §80.7.

There is nothing in the Department policy or rules that allows the Division of Hearings and Appeals to return expunged FS to an account. In this case the agency sent four notices to petitioner telling him of the need to use the FS within 365 days. The first three were sent to the address that petitioner gave as his mailing address, but the fourth was sent to his current address. Petitioner did not pick up mail at the former address.

I conclude that I have no authority to reissue the expunged FS.

CONCLUSIONS OF LAW

There is no authority for the Division of Hearings and Appeals to order reissuance of FS that were expunged from the EBT system for non-use.

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 17th 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 17, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability