



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/158707

PRELIMINARY RECITALS

Pursuant to a petition filed July 01, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on July 23, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly increased Petitioner's FoodShare benefits effective August 1, 2014.

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: Simone Johnson, Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On June 16, 2014, the agency sent the Petitioner a notice reminding her that her Transitional FoodShare benefits would be ending effective July 31, 2014. (Exhibit 8, pg. 11)

3. Petitioner had been receiving \$15.00 per month in Transitional FoodShare benefits. (Exhibit 8, pg. 7)
4. On June 16, 2014, the Petitioner contacted the agency, reported a loss of employment and provided verification that her employment ended. (Exhibit 3, pgs. 8 and 9)
5. On July 1, 2014, the Petitioner contacted the agency and requested a recertification to end her Transitional FoodShare benefits. Petitioner completed her interview that same day. (Id.)
6. On July 2, 2014, the agency sent the Petitioner a notice indicating that her FoodShare benefit would be increased from \$15.00 per month to \$347.00 per month effective August 1, 2014. (Exhibit 8, pgs. 12-16)
7. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on July 1, 2014.

DISCUSSION

Petitioner filed an appeal, because she believes the increase in her FoodShare benefits should have taken effect July 1, 2014, not August 1, 2014.

Transitional FoodShare benefits automatically extend FoodShare benefit eligibility for 5 months to food units whose Wisconsin Works (W-2) or Tribal TANF cash assistance ends. *FoodShare Wisconsin Handbook (FSH) §5.1.1.1*

Transitional FoodShare allotments are calculated using the income and expenses from the month prior to the last W-2 cash payment. *FSH §5.1.1.1* This amount is frozen for 5 consecutive months. *Id.*

“If a change is reported or becomes known to the agency, the change will be acted upon at the time of reapplication, when the five month Transitional FoodShare benefit period ends. *FSH §5.1.1.1* However, *FSH §5.1.1.7* does state that a food unit may request a recertification for regular FoodShare benefits at any time during the five-month Transitional FoodShare benefit period. Once the agency calculates the regular FoodShare benefit, the food unit may choose to receive either the Transitional FoodShare benefits or the regular FoodShare benefits. *FSH §5.1.1.7*

It is clear that when the Petitioner contacted the agency with verification of her unemployment on June 16, 2014, that she was seeking an increase in her FoodShare benefits. Though Petitioner did not use the magic word, “recertification” that is effectively what she was seeking when she reported the loss of her employment.

Changes that cause an increase in benefits take affect the first of the month following the reported change. *See FSH §6.1.3.3* In this case, the change was the switch from Transitional FoodShare Benefits to regular FoodShare benefits. Thus, the agency should have increased Petitioner’s FoodShare benefits effective July 1, 2014.

CONCLUSIONS OF LAW

The agency incorrectly increased Petitioner’s FoodShare benefits effective August 1, 2014.

THEREFORE, it is

ORDERED

That the agency issued to Petitioner FoodShare benefits totaling \$347.00 for the month of July 2014. The agency shall take all administrative steps to complete this task within 10 days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 15th day of August, 2014.

\sMayumi M. Ishii
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 August 15, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability