



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/159243

**PRELIMINARY RECITALS**

Pursuant to a petition filed July 23, 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 August 28, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly closed Petitioner’s FS case effective July 1, 2014 when the agency received returned mail on three separate occasions, the agency was unable to reach Petitioner by phone, and Petitioner never contacted the agency to report a change of address until after her case had closed.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Jose Silvestre  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner receives SSI and is an elderly, blind, or disabled FS household.

3. On May 27, 2014 Petitioner completed a renewal for her FS case. A notice was mailed to Petitioner May 27, 2014 and on June 6, 2014 the agency received returned mail from Petitioner with no new forwarding address.
4. The agency attempted to call Petitioner at the phone number she provided, but they were unable to leave a message.
5. On June 9, 2014 the agency sent Petitioner a notice stating they had questions about her household information. The notice further advised Petitioner if she failed to contact the agency to verify her household information, her FS case would close. The agency received that notice back as return mailed with no new forwarding address.
6. On June 16, 2014 the agency sent Petitioner a notice stating that her FS case would close effective July 1, 2014 because they received information Petitioner was living out of state. The agency received that notice back as returned mail with no new forwarding address.
7. Effective July 1, 2014 Petitioner's FS case closed.
8. On July 16, 2014 Petitioner contacted the agency to ask why she had not received July FS benefits. The agency explained what had happened on her case. She reapplied for FS benefits and received pro-rated July FS benefits from her application date.

### DISCUSSION

An elderly, blind, or disabled FS household must report all changes including a change in address to the agency within 10 days of that change. *FoodShare Wisconsin Handbook (FSWH)*, 6.1.1.1, available at <http://www.emhandbooks.wi.gov/fsh/>. This handbook language is consistent with the controlling federal FS rule. 7 C.F.R. §273.12(a)(2). The federal regulations direct the agency to “take prompt action on all changes to determine if the change affects the household's eligibility or allotment.” 7 C.F.R. §273.12(c).

Sometimes the agency receives information about changes in a household's circumstances from which the agency cannot readily determine the effect of the change on the household's FS benefit or eligibility. 7 C.F.R. §273.12(c)(3). This information can come from a third party or the household itself. *Id.* If the agency receives this unclear information, the agency must issue a written request for contact (RFC) which clearly advises the household of the verification it must provide or the actions it must take to clarify its circumstances. 7 C.F.R. §273.12(c)(3)(i). If the household does not respond, then the agency must issue a notice of adverse action terminating the FS case. 7 C.F.R. §273.12(c)(3)(ii).

In this case Petitioner left Wisconsin sometime after May 27, 2014. Petitioner completed her renewal on May 27, 2014. Following this renewal the agency sent Petitioner three separate notices at the address she provided during her renewal. All the notices were returned to the agency as returned mail with no forwarding address. The agency also called Petitioner at the phone number she provided, but they were unable to leave a message. In addition, to the returned mail, the agency received information from the family care program that Petitioner had moved out of state.

Petitioner argues that her FS benefits should never have been terminated because she was never residing out of state. Petitioner is an elderly, blind, or disabled household. As an elderly, blind, or disabled household Petitioner must report any changes within 10 days of those changes. Petitioner admitted that although she did not move out state, she was in Iowa for a period of time taking care of her sick brother who ultimately died. Upon returning to Wisconsin she was relocated to another apartment also owned or managed by Earl Hines as her previous apartment had already been rented. In order to obtain this new apartment from the same landlord she had to pay the back rent even though the landlord had rented her apartment.

Regardless of whether or not Petitioner was living out of State, the agency received credible information that Petitioner had moved and further credible information from family care that Petitioner had moved out of state. The agency attempted to verify this third party information with Petitioner, however, there was no way for the agency to her a voicemail at the phone number she provided and all of the notices including notices saying that her FS case would close were returned as returned mail with no forwarding address. Petitioner's FS case closed effective July 1, 2014 and it was not until July 16, 2014 that Petitioner contacted the agency to ask why she had not received her July FS benefits.

The agency followed the federal statutes and state handbook. The agency received unclear information from a third party. The agency attempted to verify that information. Petitioner did not respond to the verification request. The agency then gave notice to the Petitioner that they were closing her case, she did not respond, and her case closed. It does not matter whether or not Petitioner was in fact residing out of state during this short period. The agency attempted to verify where Petitioner was living, and Petitioner failed to respond to the agency's requests. Had Petitioner responded with the proper verification within the time period in the notices, her case would have remained open. However, Petitioner failed to do that. As of the date of the hearing, Petitioner had reapplied for July FS benefits and received pro-rated July FS benefits from the date of her new FS application. This procedure exactly follows the federal FS regulations.

**CONCLUSIONS OF LAW**

The agency correctly closed Petitioner's FS case when she failed to respond to three verification requests, and could not be reached by phone.

**THEREFORE, it is**

**ORDERED**

That the Petition is dismissed.

**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 3rd day of September, 2014

---

\sCorinne Balter  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 3, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability