



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/161874

**PRELIMINARY RECITALS**

Pursuant to a petition filed November 10, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 04, 2014, at Racine, Wisconsin.

The issue for determination is whether Racine County Department of Human Services (the agency) correctly ended the Petitioner’s FoodShare benefits.

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: Rhonda Kramer, Lead Economic Support Specialist  
Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Racine County.
2. On July 22, 2014, the agency sent the Petitioner a notice indicating that he had been referred to the FoodShare Employment and Training (FSET) program, effective August 2014. The notice further advised the Petitioner that childless adults between the ages of 18 and 49 will only get three months of time limited FoodShare benefits, in a 36 month period, unless they meet a work requirement such as,

working 80 hours a month; taking part in a work program 80 hours each month or doing both for a total of 80 hours each month. (Exhibit 8)

3. On October 17, 2014, the agency sent the Petitioner a notice indicating that his Foodshare benefits would be ending because he, “used 3 months of time-limited benefits without meeting a work requirement during those 3 months.” (Exhibit 10)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 6, 2014. (Exhibit 1)

### DISCUSSION

Effective July 1, 2014, the Department of Health services implemented a new policy limiting benefits that childless adults in Kenosha, Racine and Walworth counties may receive. *FoodShare Wisconsin Handbook (FSH) §3.17.1.2* This policy is referred to as the Able Bodied Adults without Dependents (ABAWD) policy and will be implemented statewide, effective January 1, 2014. *Id.*

Under ABAWD rules, childless, able-bodied adults must either meet ABAWD work requirements or be exempt from the work requirement in order to receive FoodShare benefits. *FSH §3.17.1.1* ABAWDs who are not exempt and who do not meet the work requirement, are only allowed to receive 3 full months of time-limited benefits in a 36-month period. *Id.*

A person is considered an ABAWD, if that person is:

1. 18 to 49 years of age,
2. Able to work,
3. Not residing in a household with a child under age 18, and
4. Not pregnant

*FSH §3.17.1.4*

An ABAWD may be exempt from work requirements if the person:

1. Is determined unfit for employment;
2. Is responsible for the care of a child under age 6 or caring for an incapacitated person living outside the home;
3. Is receiving Unemployment Compensation, or has applied for Unemployment Compensation and is complying with those work requirements;
4. Is regularly participating in an alcohol or other drug addiction treatment or rehabilitation program; or
5. Is a student of higher education and is otherwise eligible for FoodShare benefits under §3.15.1.

*FSH §3.17.1.4*

In the case at hand, the Petitioner does not dispute the fact that he meets the definition of an Able Bodied Adult Without Dependents. Petitioner also does not dispute the fact that he did not meet the ABAWD work requirements between August 1, 2014 and October 31, 2014. However, the Petitioner asserts that he should be exempt from the work requirement because he is a student at Gateway Technical College and is trying to obtain his HSED.

The Petitioner does not appear to meet the student eligibility requirements under FSH §3.15.1, because he is not working 20 or more hours per week and because he is not enrolled half time or more. The Petitioner testified that he attends class only two to four hours a week. Because the Petitioner is not otherwise eligible for FoodShare benefits as a student of higher education under §3.15.1, he is not exempt from the ABAWD work requirements.

The Petitioner also argues that he was not given proper notice of his limited term benefits and claims that he did not receive the July 22, 2014 notice. However, the Petitioner acknowledged that the address on the July 22, 2014 notice was his mother’s address, which he uses as his mailing address. That is the same address the Petitioner provided in the Request for Fair Hearing. (See Exhibits 1 and 8)

The Petitioner did not provide any explanation for why he would not have received the July 22, 2014 notice. Moreover, the Petitioner clearly received the notice for this hearing at that same address, so it is unlikely the July 22, 2014 notice was not delivered to the correct address. As such, the Petitioner’s claim that he did not get notice of the work requirement and his enrollment in the FSET program is not supported by the record.

Because the Petitioner is an ABAWD and because the Petitioner did not meet the ABAWD work requirements, the agency properly ended his benefits after three months, effective November 1, 2014.

**CONCLUSIONS OF LAW**

The agency correctly ended the Petitioner’s FoodShare benefits, effective November 1, 2014.

**THEREFORE, it is** **ORDERED**

That the petition is 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 Milwaukee,  
Wisconsin, this 15th day of December, 2014.

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\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 December 15, 2014.

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