



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
Redact

DECISION

FOO/162425

PRELIMINARY RECITALS

Pursuant to a petition filed December 5, 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 December 23, 2014, at Milwaukee, Wisconsin. The hearing record was held open for 10 days to allow the petitioner to submit a copy of her telephone bill; nothing was received.

The issue for determination is whether the Department correctly discontinued the petitioner's FS effective November 1, 2014, for failure to complete an annual review.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact

Respondent:

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

By: [Redacted], IM Spec. Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. The petitioner had an ongoing FS case for a household of two persons prior to November 2014. Her case was due for an annual review during October 2014.

3. On September 15, 2014, the agency issued written notice to the petitioner advising that her FS case would have to be reviewed no later than October 31, 2014. The notice further advised her to either file an online or mail-in renewal form or call the agency, *and* to telephone the agency for a required interview. Exhibit 2A.
4. On October 17, 2014, the agency issued written notice to the petitioner advising that her FS were being discontinued effective November 1, 2014. The basis for discontinuance was failure to complete a review. Exhibit 2B.
3. The petitioner did not file an online or mail-in renewal form with the Department (although she had the option of telephoning the agency to give the renewal information). From September 1 through November 16, 2014, the petitioner did not telephone the agency to either provide her renewal information or go through the required interview. *See*, Exhibit 1, Case Comments.
4. The petitioner telephoned the agency on November 17, 2014, to inquire as to why her FS had ended. Exhibit 1, Case Comments.

DISCUSSION

An agency and FS recipient must perform a periodic review of eligibility during specific time intervals (e.g., 12 months in many cases) as a condition of ongoing FS issuance to the recipient. 7 C.F.R. 273.14.(a); *FS Wisconsin Handbook (FSWH)*, 2.2.1, <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm> . In performing a review, the parties’ responsibilities are as follows:

- (1) the county must send a notice to the recipient informing him/her that the certification period is ending and an interview must be conducted if benefits are to continue,
- (2) an interview must be conducted and the recipient must be notified of verifications required to determine continued eligibility for the program,
- (3) certain information gathered at the interview must be verified, and
- (4) an appropriate eligibility entry must be made in the CARES computer system.

Id., 2.2.1.3.

In this case, the petitioner asserts that she telephoned the agency on approximately October 20, 2014, and asked to perform a renewal. The agency keeps a contemporaneous record of incoming telephone conversations in a Department databased labeled “Case Comments.” There is no record of such a call from the petitioner. This hearing record was held open to allow the petitioner to submit a copy of her telephone records to establish that she made a call to the agency’s number on or about October 20. Nothing was received. Therefore, the agency has met its burden of proving, by a preponderance of the credible evidence, that FS discontinuance was correct because the petitioner did not attempt a renewal prior to her November 17 contact.

CONCLUSIONS OF LAW

1. The Department correctly discontinued the peittioner’s FS case effective November 1, 2014, for failure to complete a review.

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 Madison,
Wisconsin, this 20th day of January, 2015

\sNancy J. Gagnon
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 January 20, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability