



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/163076

PRELIMINARY RECITALS

Pursuant to a petition filed December 30, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a hearing was held on February 16, 2015, at Ashland, Wisconsin.

The issue for determination is whether the petitioner had to verify his income if the agency incorrectly believed he changed his employer after he provided an alternative name for that employer.

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: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a resident of Ashland County.

2. On November 12, 2014, the petitioner submitted his six-month report form for FoodShare. He indicated on it that he worked for [REDACTED]. He then verified his income with paystubs that indicated that his employer was [REDACTED].
3. On December 1, 2014, he submitted his application to renew his medical assistance and listed his employer as [REDACTED], which was another name for the same employer. The agency worker assumed the petitioner had a new employer and closed his case because his income exceeded the program's limit.
4. On December 11, 2014, the Department requested the petitioner to provide paystubs from [REDACTED] for the last 30 days by December 30, 2014. This notice indicated that the request pertained to his medical assistance benefits.
5. The county agency notified the petitioner on December 11, 2014, that his FoodShare would end as of January 1, 2015, because his income exceeded the program's limit. That notice indicated that he earned \$675.75 twice a month from [REDACTED] and \$675.75 twice a month from [REDACTED]. His actual income was half that.

DISCUSSION

This case arises because of a misunderstanding. The petitioner works for the company that publishes the local newspaper in Ashland. On November 12, 2014, he submitted his FoodShare reporting form, as he is required to do every six months. He also verified his income by providing the agency with his paystubs. His reporting form indicated that he worked at [REDACTED], but his paystubs were from [REDACTED]. Although the names were different, this did not confuse the agency, and it continued his eligibility for FoodShare. But a few weeks later, on December 1, 2014, on his application to renew his medical assistance, he indicated that he worked for [REDACTED]. The FoodShare agency assumed this was a separate company and added the \$1,351.50 monthly income he reported on his medical assistance renewal to the \$1,351.50 monthly income he had already reported on his six-month FoodShare report, which made him ineligible.

The agency argues that the petitioner is eligible for FoodShare because he did not verify his income as requested but instead filed an appeal. Nothing he did justifies ending those benefits. Agencies do have to deny benefits to those who fail to verify requested information, but no one ever requested that he verify his income for FoodShare purposes after he did so when he renewed those benefits in November. 7 CFR § 273.2(c)(5). Instead, the agency requested that he verify his income from the "Daily Press" for his *medical assistance* application. And the reason the agency's notice gave him for ending his FoodShare benefits was that his income exceeded the program's limit, which as mentioned, it did after assuming his income was double his actual income. That notice did not mention his alleged failure to verify his income as a reason for ending his benefits. Nor could it: The notice ending his benefits was sent on December 11, 2014, the same date the request for verification was sent in the medical assistance matter. The verification request gave him until the December 30, 2014, to comply with it. The agency could not notify him on December 11 that it was ending his FoodShare benefits for failing to comply with a request that was not due for 19 days. Its only conceivable basis for ending his FoodShare benefits was that his income was too high. Because his income was within the FoodShare limit, he correctly responded to a notice indicating that it was not by filing an appeal. The agency no longer disputes that his income was within the program's income. Therefore, it must restore his benefits retroactive to January 1, 2015.

CONCLUSIONS OF LAW

The petitioner's income was within the FoodShare limit at all times relevant to this decision.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it reinstate the petitioner's FoodShare benefits retroactive to January 1, 2015. When doing so, it shall assume that his income has been \$1,351.50 per month.

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 26th day of February, 2015

\sMichael D. O'Brien
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 February 26, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability