



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/163155

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2015, 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 January 29, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly calculated the petitioner's monthly FS benefits for January, 2015.

There appeared at that time 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: Jose Silvestre

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner was an ongoing FoodShare recipient who participated in W2 until December, 2014.

3. Petitioner was initially placed into transitional FS, and she then applied for regular FS on January 13, 2015.
4. The petitioner reported to the agency on January 13, 2015, that she was not working.
5. The county agency approved petitioner's FS application and increased her FS benefits as of February, 2015.

DISCUSSION

FoodShare rules hold that “[a]ll reported changes that cause an increase in the FS benefit...will be effective the first of the month following the report month.” *FoodShare Wisconsin Handbook*, § 6.1.3.3.; see also, 7 CFR 273.12(c)(1). The respondent testified that the petitioner was receiving transitional FS benefits as a recent W2 participant. Her last W2 was in December of 2014, so she was therefore placed into transitional FS. Petitioner was provided with a December, 2014, notice identifying the amount of her January FS benefits.

Petitioner then applied for regular FS benefits on January 13, 2015. She was approved for a household of 12, and FS benefits were adjusted commencing February 1, 2015. The respondent's electronic case comments indicate that the respondent was not aware of the fact that petitioner was not working until her January 13, 2014, application.

I sympathize with the petitioner but have no power to grant her request to modify her January, 2015, allotment. Administrative law judges lack equitable powers that would allow them to consider the fairness of the situation. Rather, they must apply the law as it is written. FoodShare rules do not allow additional benefits until the month after the recipient reports a change in income.

CONCLUSIONS OF LAW

The petitioner is not entitled to additional FoodShare in January, 2015, because she reported the change in her income that month.

THEREFORE, it is

ORDERED

The petitioner's appeal 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 2nd day of March, 2015.

\sPeter McCombs
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 2, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability