



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/163972

PRELIMINARY RECITALS

Pursuant to a petition filed February 16, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on April 16, 2015. At petitioner's request a Hearing scheduled for March 16, 2015 was rescheduled. The Hearing for this matter was held at the same time as the Hearing for the following related matter concerning the same petitioner: BCS-163973.

The issue for determination is whether it was correct to discontinue petitioner's FS effective February 1, 2015.

There appeared at that time via telephone 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: Maikou Yang, ESS
Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County, Wisconsin.
2. An investigation completed in August 2014 made questionable petitioner's claim that her minor daughter was actually part of her FS household as petitioner had claimed.
3. By a *Notice of Proof Needed* letter dated December 10, 2014 the County requested proof of petitioner's living arrangements with regard to her minor daughter with a due date of December 19, 2014.
4. Petitioner did not provide the County with any proof of her living arrangement with regard to her minor daughter by the December 19, 2014 deadline.
5. By an *About Your Benefits* letter notice dated December 22, 2014 the County informed petitioner that her FS would end February 1, 2015 because she "did not provide the required proof."

DISCUSSION

The County is required to verify certain factors relating to FS -- including household composition if questionable. 7 C.F.R. § 273.2(f)(1)(x) (2015); See also, 7 C.F.R. §§ 273.2(f)(2)(i) & (f)(8)(i)(A) (2015); *FoodShare Wisconsin Handbook* ["FS Handbook"] 1.2.6.2. The County must verify all factors of eligibility which are questionable. 7 C.F.R. § 273.2(f)(2)(i) (2015). The applicant has primary responsibility for providing verification and to resolve questionable information. 7 C.F.R. § 273.2(f)(5)(i) (2015); FS Handbook 1.2.1.3; *Income Maintenance Manual* ["IMM"] 9.1.3.3. However, the County must assist the household in obtaining verification and resolving questions as long as the household has not refused to cooperate. *Id.* For a determination of refusal to be made the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take. For example, to be denied for refusal to cooperate a household must refuse to be interviewed, not merely fail to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency must provide assistance. 7 C.F.R. §§ 273.2(d)(1) & 273.2(f)(5)(i) (2015).

In this case it is true that petitioner did not provided verification by the December 19, 2014 deadline -- but she did provide verification. She provided a written statement dated February 18, 2015 from her minor daughter. She provided postmarked envelopes addressed to her minor daughter using her (petitioner's) address. She provided Wisconsin Department of Transportation ["DOT"] documentation dated December 22, 2014 with her minor daughter's name and her (petitioner's) address. Thus, it cannot be concluded that petitioner has refused to cooperate.

The August 2014 investigation conducted for the County raises questions about the living arrangement for petitioner's minor daughter. However, the verification provided by petitioner is sufficient to prevent her FS from being discontinued effective February 1, 2015.

CONCLUSIONS OF LAW

For the reasons discussed above, it was not correct to discontinue petitioner's FS effective February 1, 2015.

NOW, THEREFORE, it is

ORDERED

That this matter be REMANDED to the County, that the County not discontinue petitioner's FS effective February 1, 2015, and that, within 10 days of the date of this *Decision*, the County issue all FS for which petitioner is otherwise eligible, and which have not already been issued to her, retroactive to February 1, 2015.

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 27th day of April, 2015

\sSean P. Maloney
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 April 27, 2015.

Marathon County Department of Social Services
Division of Health Care Access and Accountability