



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/165365

PRELIMINARY RECITALS

Pursuant to a petition filed April 14, 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 May 5, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner’s request to correct her benefits for November 2014 through April 2015.

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: Simone Johnson, Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. On October 6, 2014, the Petitioner provided her signed, Six Month Report Form (SMRF). In that SMRF, the Petitioner reported receiving child support for her son only. (Exhibit 2, pgs. 11-16; 27-36)

3. On October 8, 2014, the agency processed the Petitioner's SMRF and updated her child support income through the KIDS data base. (Exhibit 2, pgs. 11-16)
4. According to KIDS, the Petitioner received child support for two children in June, July, August and October 2014. (Exhibit 2, pgs. 21-26)
5. Petitioner's case was then pended for verification of other income; then closed temporarily due to lack of verification. (Exhibit 2, pgs. 11-16)
6. On November 3, 2014, the agency sent the Petitioner a notice, indicating that as of November 1, 2014, she would be receiving FoodShare benefits in the amount of \$511 per month. At that time the agency counted child support for Petitioner's daughter in the amount of \$92.30 per month and child support for her son in the amount of \$232.96 per month. (Exhibit 2, pgs. 37-42)
7. According to KIDS Petitioner did not actually receive child support for both children between November 1, 2014 and April 13, 2015. (Exhibit 2, pgs. 21-26)
8. On December 15, 2014, the agency sent the Petitioner a notice indicating that as of January 1, 2015, her FoodShare benefits would be reduced from \$511.00 per month to \$354.00 per month, because her earned income increased. The agency continued to count the child support for both children. (Exhibits 3 and 4)
9. On April 2, 2015, the Petitioner called the agency to complete her renewal and reported receiving child support for one child only, her son. The agency confirmed this information and processed the Petitioner's renewal, counting child support for one child, only. (Exhibit 2, pgs. 11 and 46)
10. The Petitioner filed an appeal that was received by the Division of Hearings and Appeal on April 14, 2015. (Exhibit 1)

DISCUSSION

At the hearing, the Petitioner indicated that she filed an appeal because she believes the agency miscalculated her FoodShare benefits from November 2014 through April 2015, because it incorrectly included child support for her daughter.

It is the agency's position that it cannot go back and correct the Petitioner's allotment, because she caused the underissuance of benefits.

FoodShare Wisconsin Handbook (FSH) §7.4.1.1 states that the agency is to, "Restore FS benefits when you discover a FS group received fewer benefits than it was entitled to receive. Only restore benefits if the group did not cause the underissuance..." *Emphasis added.*

The Petitioner claims that in November 2014, she reported that the child support for her daughter would be ending, so the agency caused the underissuance of benefits by failing to act on a reported change. However, there is no documentation in the record to support this claim. Indeed, the case comments only document two contacts with the Petitioner in November; one on November 3, 2014 and the second on November 4, 2014 and neither entry reflects any discussion about Petitioner's child support income. (See Exhibit 2, pgs. 11 and 12)

At the time the agency calculated the Petitioner's benefits on or about November 3, 2015, the best information the agency had concerning the Petitioner's child support income came from the data exchange which showed that the Petitioner received child support for both children in June, July, August, September and October. (See Exhibit 2, pgs. 21-24) As such, the agency had no reason to believe, at that time, that the Petitioner's child support would be ending.

On November 3, 2015, the agency sent the Petitioner a notice advising her that it was counting child support income for both children. (Exhibit 2, pgs. 37-42) According to the case comments, the Petitioner

did not tell the agency that the child support for her daughter ended, until she completed her renewal in April 2015. Consequently, the Petitioner caused the underissuance of benefits by failing to report the change to the agency.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner’s request to correct her benefits for November 2014 through April 2105.

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 13th day of May, 2015.

\sMayumi M. Ishii
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 May 13, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability