



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FWP/165594

PRELIMINARY RECITALS

Pursuant to a petition filed April 23, 2015, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on May 13, 2015, at Racine, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner’s FS benefits.

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: Madeline Rice

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Racine County.
2. From December, 2014 – April, 2015, the Petitioner was in Mississippi caring for a dying relative.
3. On January 12, 2015, the agency issued a FoodShare Employment and Training (FSET) referral informing her that she has been referred to the FSET program and the agency would contact her to set up an enrollment appointment.

4. On January 13, 2015, the agency issued a notice to the Petitioner which stated: “Action Required: FSET Initial Appointment Scheduled.” It informed the Petitioner that an appointment for her FSET enrollment was scheduled for January 20, 2015. It stated that she must contact the agency if she missed the appointment.
5. On February 2, 2015, the agency issued a notice to the Petitioner which stated: “Action Required: FSET Initial Appointment Scheduled.” It informed the Petitioner that an appointment for her FSET enrollment was scheduled for February 11, 2015. It stated that she must contact the agency if she missed the appointment.
6. On February 24, 2015, the agency issued a notice to the Petitioner which stated: “Action Required: FSET Initial Appointment Scheduled.” It informed the Petitioner that an appointment for her FSET enrollment was scheduled for March 3, 2015. It stated that she must contact the agency if she missed the appointment.
7. On March 10, 2015, the agency issued a notice to the Petitioner which stated: “Action Required: FSET Initial Appointment Scheduled.” It informed the Petitioner that an appointment for her FSET enrollment was scheduled for March 13, 2015. It stated that she must contact the agency if she missed the appointment.
8. On March 25, 2015, the agency issued a notice to the Petitioner which stated: “Action Required: FSET Initial Appointment Scheduled.” It informed the Petitioner that an appointment for her FSET enrollment was scheduled for March 31, 2015. It stated that she must contact the agency if she missed the appointment.
9. On April 6, 2015, the Petitioner contacted the agency. She was informed that she is in the third month of her time-limited benefits and she needed to contact her FSET worker. The Petitioner indicated that she would do so.
10. On or about April 14, 2015, the Petitioner contacted the agency and reported she had just received the notices.
11. On April 16, 2015, the agency issued a notice to the Petitioner which stated: “Action Required: FSET Initial Appointment Scheduled.” It informed the Petitioner that an appointment for her FSET enrollment was scheduled for April 20, 2015. It stated that she must contact the agency if she missed the appointment.
12. On April 17, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would end on May 1, 2015 due to the Petitioner using 3 months of time-limited benefits without meeting a work requirement.
13. On April 23, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Effective July 1, 2014, Wisconsin began the Able-Bodied Adults without Dependents (ABAWD) policy in Kenosha, Racine and Walworth counties. FoodShare Wisconsin Handbook (FSH) §3.17.1.2. This was implemented statewide as of April 1, 2015. Id.

Under ABAWD rules, childless, able-bodied adults must either meet ABAWD work requirements or be exempt from the work requirement in order to receive FoodShare benefits. ABAWDs who are not exempt and who do not meet the work requirement are only allowed to receive 3 full months of time-limited benefits in a 36-month period. FSET Handbook, § 6.3.2.

A person is considered an ABAWD, if that person is:

- ...
- 18 to 49 years in age*;

- Able to work;
 - Not residing in a household with a child under age 18 (regardless of the individual's relationship to the child, whether the child is included in the individual's FS assistance group, or the child's FS eligibility status); and
 - Not pregnant.
- ...

FSET Handbook, § 6.2.1.

The FSET Handbook states the responsibilities of participants, including:

- The participant must attend scheduled appointments related to FSET. If the participant is unable to keep an appointment or anticipates being late for an appointment, s/he must notify the FSET case manager before the appointment. If the participant is unable to make contact before the appointment, s/he must do so as soon as possible.
 - The participant must notify the FSET case manager immediately of any issues that prevent participation in assigned activities or that prevent participation in the FSET program overall. The FSET case manager may request verification of missed participation in order to determine good cause for non-participation.
- ...

I note that, for purposes of FS benefits, a FS recipient may continue to receive FS benefits if the recipient is "temporarily absent" from the household for up to two months. FS Handbook, § 3.2.1.

In this case, the Petitioner was absent for almost five months from the household. She did not report her absence to the agency. The agency properly issued notices to the address of record. The agency worker testified that if the Petitioner had notified the agency in a timely manner of her absence and the reason for it, the agency might have been able to exempt her from FSET requirements. It was the Petitioner's responsibility to comply with the notices that were issued. It was not the fault of the agency that she did not receive the notices in a timely manner; rather it was the Petitioner's lack of communication with the agency that resulted in her non-compliance with FSET requirements and the expiration of her time-limited benefits. Therefore, I must conclude that the agency properly discontinued the Petitioner's FS benefits for failure to comply with FSET work requirements.

CONCLUSIONS OF LAW

The agency properly discontinued the Petitioner's FS benefits.

THEREFORE, it is ORDERED

That 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 Milwaukee,
Wisconsin, this 19th day of June, 2015

\sDebra Bursinger
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 June 19, 2015.

Racine County Department of Human Services
Division of Health Care Access and Accountability