



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/166573

PRELIMINARY RECITALS

Pursuant to a petition filed June 12, 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 July 02, 2015, at Milwaukee, Wisconsin.

NOTE: The record was held open until July 3, 2015, to give the Petitioner an opportunity to supplement the record with proof that her step-daughter moved out of her residence. On July 2, 2015, the Petitioner provided a copy of a journal page. It has been marked as Exhibit 3 and entered into the record.

The issue for determination is whether the agency correctly denied the Petitioner’s application for FoodShare 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: 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. In January 2015, ■ came to live with her father and the Petitioner, who is her step-mother. (Testimony of Petitioner)
3. On January 13, 2015, ■, who was 19 years old at the time, applied for FoodShare benefits. Petitioner and her husband were included in ■'s Household and in her Food Unit. (Exhibit 2, pgs. 18-17)
4. The agency processed the application on January 23, 2015. (Exhibit 2, pg. 45 and pgs. 48-62)
5. On June 12, 2015, the Petitioner contacted the agency to apply for FoodShare benefits. At that time, the Petitioner was informed that she could not receive benefits on her own case, because she was included in ■'s Household/Food Unit. (Exhibit 2, pg. 7)
6. The Petitioner filed a request for fair hearing on that same day, by phone. (Exhibit 1)
7. The agency did not send the Petitioner a notice of adverse action. (Testimony of Ms. Johnson)
8. Also on June 12, 2015, the agency removed the Petitioner, her husband and their children from ■'s case and pended ■'s case for verification of household composition due June 24, 2015. (Exhibit 2, pg. 45)
9. On June 15, 2015, the agency sent ■ a notice, indicating that effective June 1, 2015, her FoodShare benefits would be reduced because the Petitioner and her husband and their children were no longer included in her case. (Exhibit 2, pgs. 64-70)
10. On June 22, 2015, the agency processed an application / renewal for ■, in which ■ reported a household of one and a "different address". (Exhibit 2, pg. 45)

DISCUSSION

FoodShare Wisconsin Handbook (FSH) §2.1.1 states:

Local agencies must encourage individuals to file an application or set a filing date for FoodShare on the same day they express an interest in FS or concerns about food insecurity. Local agencies must not discourage households from applying for FS if their application or benefits for another program have been denied or terminated. In this situation, the local agency shall encourage the household to continue with the FoodShare application process.

It is puzzling, why the agency told the Petitioner that she could not apply for her own benefits, when it immediately took action to remove the Petitioner, her husband and children from ■'s cases and to pend ■'s case for verification of household composition. Per *FSH §2.1.1* above, the agency should have taken the Petitioner's application and processed it.

Further, "Each client has the right to adequate and timely notice of adverse action." *Income Maintenance Manual (IMM) §§ 3.2.1 and 3.2.2; see also FSH §1.2.1.2* Because the agency did not issue a notice of adverse action, it did not give adequate notice of its denial of Petitioner's request for benefits.

The agency will have to process an application for the Petitioner, effective to June 12, 2015, the date the Petitioner initially called to request benefits and the date on which the agency removed the Petitioner, her husband and their children from ■'s case. If the Petitioner disagrees with the agency's action on this application, the Petitioner will have to file a NEW appeal.

It should be noted for the record that the Petitioner submitted a journal page to prove that she reported ■ moving out of the home in February 2012. (Exhibit 3) However, the entries on the journal page only refer to non-specific inquiries about "changes". As such, the journal entries are not adequate to prove the Petitioner notified the agency of that change. However, at this juncture, it should not really matter, because in ■'s case,

the agency has been working under the belief that ■ was not living with Petitioner and qualifies for FoodShare as household of one since June 12, 2015.

CONCLUSIONS OF LAW

The agency did not correctly deny the Petitioner's request for FoodShare benefits.

THEREFORE, it is

ORDERED

That the agency process a FoodShare application for Petitioner effective June 12, 2015. The agency shall take all administrative steps to complete this task within ten days of this decision.

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 16th day of July, 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 July 16, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability