



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/167053

PRELIMINARY RECITALS

Pursuant to a petition filed July 06, 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 28, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner's FoodShare for failing to meet Able-Bodied Adult without Dependent (ABAWD) work requirements.

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

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. The petitioner is an Able-Bodied Adult without dependent (ABAWD). She is also homeless. The petitioner's mail from the agency went to a box at the Coggs' building. The petitioner was able to pick her mail up from the Coggs' building.

3. On February 7, 2015 the agency sent the petitioner an informational mailing regarding the FSET program.
4. On April 1, 2015 the petitioner completed a renewal of her FoodShare (FS) benefits at the agency. At that time the agency worker explained to the petitioner that there was an FSET program and that she was an ABAWD, so the program applied to her. The worker encouraged the petitioner to go upstairs to get started with the program. The petitioner said that she did not have time, but that she would call to make an appointment. The worker also provided the petitioner with an FSET brochure.
5. The petitioner never called to set up an appointment, and never completed any of the FSET program requirements.
6. On June 17, 2015 the agency sent the petitioner a notice stating her FS benefits would terminate effective July 1, 2015 because she had used three months of time-limited benefits without meeting the work requirement.
7. The petitioner’s benefits terminated July 1, 2015. The petitioner also reapplied for FS benefits effective July 1, 2015. On July 7, 2015 the agency sent the petitioner another notice stating that her application for FS benefits was denied because she had used three months of time-limited benefits without meeting the work requirement.
8. On July 6, 2015 the Division of Hearings and Appeals received the petitioner’s request for fair hearing.

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 will be 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. *FSH §3.17.1.1*. 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. *Id.*

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.

...
FSH §3.17.1.4.

An ABAWD may be exempt from work requirements if the person:

1. Is determined unfit for employment, which includes someone who is:
 - a. Receiving temporary or permanent disability benefits from the government or a private source;
 - b. Mentally or physically unable to work, as determined by the IM agency;
 - c. Verified as unable to work by a statement from a health care professional or social worker;
2. Is responsible for the care of a child under age 6 or caring for an incapacitated person, either of which live outside the home;

3. Is receiving Unemployment Compensation (UC), or has applied for UC and is complying with UC work requirements;
4. Is regularly participating in an alcohol or other drug addiction (AODA) treatment or rehabilitation program;
5. Is a student of higher education and is otherwise eligible for FS [\(3.15.1\)](#);
6. Is a full-time high school student age 18 or over;
7. Is receiving Transitional FS benefits; or
8. Is meeting the ABAWD work requirement.
FSH §3.17.1.5.

An ABAWD meets the ABAWD work requirement if one of the following applies:

1. Working a minimum of 80 hours per month. Use converted work hours if paid weekly or bi-weekly;
2. Participating and complying with an allowable work program at least 80 hours per month; * [includes FSET]
3. Both working and participating in an allowable work program for a combined total of at least 80 hours per month; or
4. Participating and complying with the requirements of a workfare program.
FSH, §13.17.1.7.

If not exempt from work requirements each FoodShare household member must register for work at the time of application and review. *FSH, §3.16.1.4.* As just noted, a person may meet the work requirement by participating in the FoodShare Employment and Training (FSET) program. *FSH, §3.17.1.17.*

I am declining to reverse this discontinuance of Petitioner’s FoodShare. The petitioner argues that she did not know about the FSET program because she did not get any of the notices. This argument is not credible. It is true that the petitioner is homeless, and that her agency mail went to the Coggs’ building where the petitioner was able to pick up her mail. It is also true that the petitioner needed an ID to pick up her mail. Ultimately it is the petitioner’s responsibility to obtain an ID and the agency mail. I note that the DMV will provide IDs to indigent people at little or no charge.

Even if the petitioner never received any of the notices that the agency sent to her via mail, the agency worker verbally explained this program to the petitioner in April. This worker personally handed the petitioner a brochure about the program. Nonetheless the petitioner did not participate in the program. Thus, the agency correctly discontinued her FoodShare benefits.

CONCLUSIONS OF LAW

That the agency correctly discontinued the petitioner’s FS benefits for failing to meet ABAWD requirements – here FSET participation.

THEREFORE, it is ORDERED

That this 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.

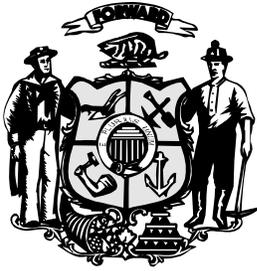
APPEAL TO COURT

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 7th day of August, 2015

\sCorinne Balter
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 August 7, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability