



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/167566

PRELIMINARY RECITALS

Pursuant to a petition filed July 28, 2015, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on August 18, 2015, at Kenosha, 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:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On April 13, 2015, the agency sent a notice to the Petitioner that she was referred to the FSET program and that she would be contacted to set up an appointment. The referral type was listed in the notice as Time Limited FS with a begin month of April, 2015.

3. On April 14, 2015, an email was sent to the Petitioner from the agency informing her of an appointment for an orientation on April 23, 2015 at 10:00 a.m.
4. On April 15, 2015, a written notice was sent to the Petitioner's mailing address informing her of the orientation appointment on April 23, 2015.
5. On April 22, 2015, the Petitioner reported to the agency that she obtained employment at the [REDACTED]. A worker spoke to the Petitioner and informed her that she was required to attend the FSET orientation unless her status changed to exempt.
6. On April 23, 2015, a Notice of Proof Needed was issued to the Petitioner informing her that she must provide verification of employment and earned income at the [REDACTED] by May 4, 2015.
7. Petitioner did not attend the April 23, 2015 FSET orientation.
8. On April 24, 2015, the agency sent a written notice to the Petitioner informing her of an orientation appointment on May 4, 2015.
9. On May 4, 2015, the Petitioner contacted the agency to report that she is no longer employed at the [REDACTED]. She did not attend the orientation on May 4, 2015.
10. On May 8, 2015, the agency sent an email to the Petitioner informing her of an orientation appointment on May 20, 2015.
11. On May 11, 2015, the agency issued a written notice to the Petitioner's mailing address informing her of the orientation appointment on May 20, 2015. The Petitioner did not appear for the appointment. The Petitioner requested that the appointment be rescheduled.
12. On May 21, 2015, the agency issued a written notice to the Petitioner informing her of an orientation appointment on June 1, 2015. The Petitioner did not appear for the appointment or call to reschedule.
13. On June 2, 2015, the agency issued a written notice to the Petitioner informing her of an orientation appointment on June 11, 2015. The Petitioner did not appear for the appointment or call to reschedule.
14. On June 15, 2015, the agency issued a written notice to the Petitioner informing her of an orientation appointment on June 23, 2015. The Petitioner did not appear for the appointment or call to reschedule.
15. On June 29, 2015, the agency received an employer verification form reporting that the Petitioner is employed at [REDACTED] for 27.5 hours/week at \$7.50/hour. The Petitioner contacted the agency to report that she works 27.5 hours/bi-weekly.
16. On July 7, 2015, [REDACTED] submitted a statement to the agency reporting that the Petitioner works 15 hours/week at \$7.50/hour. Two pay statements were submitted to the agency. For the period of June 1, 2015 – June 14, 2015, the Petitioner worked 20.52 hours. For the period of June 15, 2015 – June 28, 2015, the Petitioner worked 25.63 hours.
17. On July 17, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would end effective August 1, 2015.
18. On July 28, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

Pursuant to a provision of Wisconsin's 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full

months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement. As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat. §49.79(10), which required FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24.

On June 11, 2014 the Department of Health Services (DHS) issued Operations Memo #14-25 which outlined Wisconsin's policy and instruction for applying Time-Limited FoodShare Benefits (TLBs) to ABAWDs. Operations Memo #14-25, available online at <https://www.dhs.wisconsin.gov/dhcaa/memos/14-25amendedv3.pdf>. As explained in that Memo, effective July 1, 2014, FS applicants and members residing in Kenosha, Racine, and Walworth counties were subject to the new eligibility rules which determine if a person is an ABAWD subject to time-limited FS benefits. Id.

Persons with a Time Limited FS Referral are eligible for 3 months of time limited FS benefits in a 36 month period unless they meet the FS work requirement. There are three ways to meet the requirement:

- Working at least 80 hours/month
- Taking part in an allowable work program such as FSET, W-2 or some WIA programs for at least 80 hours/month, or
- Both working and taking part in an allowable program for a combined total of at least 80 hours/month.

FSET Handbook, §6.3.2.2.

At the hearing, the Petitioner conceded that she received the notices from the agency regarding her FSET appointments and notices regarding her benefits. She stated that she had no other excuse than that she forgot the appointments. She further testified that she was unaware that she needed to work 80 hours/month.

The agency properly notified the Petitioner of her referral to the FSET program and scheduled numerous appointments for the Petitioner to become oriented to the program. The Petitioner demonstrated no good cause reason for failing to attend the orientations. In addition, the referral notice did inform the Petitioner of the work requirements. She would have also received that information at the orientation if she had attended. The evidence regarding the Petitioner's employment demonstrates that she did not meet the requirement to work 80 hours/month, attend allowable programs 80 hours/month or have a combination of work and allowable programs 80 hours/month.

Based on the evidence presented, I conclude that the agency properly terminated the Petitioner's FS benefits effective August 1, 2015.

CONCLUSIONS OF LAW

The agency properly terminated the Petitioner's FS benefits effective August 1, 2015.

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 22nd day of September, 2015

\sDebra Bursinger
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 September 22, 2015.

Kenosha County Human Service Department
Division of Health Care Access and Accountability