



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed August 10, 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 September 30, 2015, at Milwaukee, Wisconsin.

The issue for determination is

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: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner was issued a one year FS sanction on 9/29/14.

3. Petitioner applied for FS on 4/7/14. The sanction was still active. Petitioner was denied by notice dated May 5, 2015. The notice informed petitioner that she needed to file any appeal of the denial by August 4, 2015.
4. Petitioner filed an appeal with DHA on August 10, 2015.

DISCUSSION

An administrative law judge can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action concerning FS must be filed within 90 days of the date of that action. 7 C.F.R. § 273.15(g). The petitioner's appeal was filed 96 days after the effective date of the action. Thus, it was untimely, and no jurisdiction exists for considering the merits of the denial of the FS application. There is no relevant exception under law, and I possess no authority to reach the underlying merits of the May 5, 2015 FS application denial.

To the extent petitioner was seeking to appeal the determination of the 12 month sanction issued 9/29/14, this appeal would also have been untimely for that issue. By the time of the issuance of the Decision, however, it appears that the sanction may have expired. Petitioner may wish to seek FS benefits at this point if she believes she is otherwise eligible.

CONCLUSIONS OF LAW

The appeal is untimely

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
Madison, Wisconsin, this 27th day of
October, 2015

\sJohn P. Tedesco
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 October 27, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability