



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FWP/168260

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 27, 2015, under Wis. Admin. Code § HA 3.03(4) to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on October 08, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly discontinued the petitioner's FoodShare (FS) benefits because he failed to comply with program work requirements in three months.

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: Jose Silvestre

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 abled bodied adult without dependents.
3. On May 12, 2015 the petitioner completed an application for FS benefits. The agency processed that application.

4. On June 2, 2015 the agency sent the petitioner a notice stating that he was eligible for FS benefits. The notice stated that he would receive \$87 for the partial month of May and \$194 in monthly benefits after that.
5. On June 2, 2015 the agency sent the petitioner a FoodShare Employment and Training (FSET) Program Referral notice. The notice stated that certain individuals had to participate in the FSET program in order to receive FS benefits. It then stated that the petitioner was receiving time limited FS benefits beginning June 2015. The notice explained certain adults between the ages of 18 and 49 with no minor children in the home will receive 3 months of time limited benefits unless they meet the work requirement. The notice then explained the work requirement in specific detail.
6. The agency scheduled four FSET orientations for the petitioner. The first orientation was scheduled for June 10, 2015, the next for June 22, 2015, the third for July 2, 2015, and the fourth for July 14, 2015. They sent the petitioner notices of each orientation. The petitioner failed to show for all four orientations.
7. The agency attempted to contact the petitioner via telephone and e-mail. They never received a response from the petitioner.
8. On August 19, 2015 the agency sent the petitioner a notice stating that his FS benefits will end effective September 1, 2015 because he had used the three months of time limited benefits without meeting the work requirement.
9. On August 27, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

### **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.

#### **6.3.2 Non-Exempt ABAWD Participation Requirements**

Non-exempt ABAWDs who do not meet the ABAWD work requirement will only be allowed to receive up to three full months of FoodShare (FS) benefits in a 36-month time period. ABAWDs subject to time-limited benefits (TLBs) may choose to meet the work requirement by participating in FSET.

As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat., §49.79(10), which mandated 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. The program began in Milwaukee County effective April 1, 2015, and FS recipients were required to meet the requirements beginning with the next FS review completed after April 1, 2015. *FoodShare Wisconsin Handbook*, §3.17.1.2.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If he does not fulfill the work requirement, he is limited to receiving no more than three months' FS during a three year period. The requirements are stated in the *FSET Handbook*, as follows:

### 6.3.2.1 Definition of Working for ABAWDs

For ABAWDs, working is defined as one of the following:

- Work in exchange for money;
- Work in exchange for goods or services (in-kind);
- Unpaid work (e.g. volunteer work, community service);
- Self-employment; or
- Any combination of the above.

### 6.3.2.2 ABAWD Work Requirement

An ABAWD is considered to be meeting the ABAWD work requirement if one of the following applies:

- Working a minimum of 80 hours per month. Use converted work hours if paid weekly or bi-weekly;
- Participating in and complying with the requirements of an allowable work program at least 80 hours per month; or
- Both working and participating in an allowable work program for a combined total of at least 80 hours per month.
- Participating in and complying with the requirements of a workfare program.

*FSET Handbook*, §§ 6.3.2.1 & 6.3.2.2; and see *FoodShare Wisconsin Handbook* at §3.17.1.

To meet the work requirement the ABAWD must work a minimum of 80 hours per month, participate in a work program 80 hours per month, or a combination of both for 80 hours per month. *FoodShare Wisconsin Handbook*, §3.17.1.7. The person is limited to three months of FS eligibility in which he is not meeting the 80-hour requirement and is not exempt. *Ibid.*, §3.17.1.9. FS ends after three months of failing to meet the work requirement, but eligibility can begin again if the person becomes exempt or meets the work requirement for a 30-day period (the person could reapply for FS *after* meeting the requirement for 30 days). *Ibid.*, §3.17.1.11.

There is no dispute that the petitioner is an able-bodied adult without dependents, that he did not participate in the FSET program, and that he has received FS benefits for three months. The petitioner argues that he did not get the agency's FSET notice because he was having issues with his mail. He further testified that he did not get any of the four orientation notices because he was having issues with his mail. He stated that he did not receive the agency's e-mail. In addition, he testified that he never received the voicemail the agency left. Shortly after that time his phone was disconnected because he could not afford the bill. Two days before his FS benefits were terminated, nearly ten days after the agency mailed the notice stating his FS benefits would terminate, he inquired about meeting the FSET requirements. It was too late at that point, and there was nothing he could do.

The agency stated that their standard practice is to explain the FSET requirements to able-bodied adults without dependents during the application process. They believe that that would have happened in this case. They then sent the petitioner a notice explaining the FSET requirement. They set up four orientations for him. They attempted to contact him via phone and e-mail. I don't know what else the agency could have done here. I do not find the petitioner's testimony that he did not receive all five FSET notices mailed to him credible. Even if he was having trouble with his mail, which I do not believe, he should have received at least one of those notices. This is self-serving, convenient testimony after his time limited benefits have ended. He provides no explanation for failing to respond to the agency's e-mail and voicemail aside from testifying that he does not remember receiving either of those.

He did not even attempt to participate in the FSET program until days before his time limited FS benefits were ending.

**CONCLUSIONS OF LAW**

The agency correctly discontinued the petitioner's FoodShare (FS) benefits because he failed to comply with work program requirements in three months.

**THEREFORE, it is ORDERED**

That the petition 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 9th day of October, 2015

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\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 October 9, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability