



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/168284

PRELIMINARY RECITALS

Pursuant to a petition filed August 28, 2015, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on September 22, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services (the agency) correctly ended the Petitioner’s benefits effective September 1, 2015.

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: Simone Johnson, HSPC Sr.
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 # [REDACTED]) is a resident of Milwaukee County.
2. On June 1, 2015, the Petitioner completed a renewal.

3. On June 2, 2015, the agency sent the Petitioner a notice referring him to the FoodShare Employment and Training (FSET) Program. The notice further advised the Petitioner that his time limited benefits would begin June 2015.
4. On June 2, 2015, the FSET program sent the Petitioner an appointment notice, indicating that he had an appointment on June 11, 2015 to begin his enrollment.
5. On June 15, 2015, the FSET program sent the Petitioner an appointment notice, indicating that he had an appointment on June 23, 2015 to begin his enrollment.
6. On June 25, 2015, the FSET program sent the Petitioner an appointment notice, indicating that he had an appointment on July 1, 2015 to begin his enrollment.
7. On July 3, 2015, the FSET program sent the Petitioner an appointment notice, indicating that he had an appointment on July 13, 2015 to begin in enrollment.
8. The notices went to the correct mailing address. However, by the time the Petitioner received them, the appointment date passed. (Testimony of Petitioner)
9. Petitioner checked his mail once every two to three weeks. (Testimony of Petitioner)
10. The Petitioner did call to reschedule appointments, but never attended any intake/enrollment appointments. (Testimony of Petitioner)
11. Petitioner did not work between June 1, 2015 and August 31, 2015. (Testimony of Petitioner)
12. The Petitioner conducted an independent job search 15-20 hours per week, but not as part of any work program. (Testimony of Petitioner)
13. On August 19, 2015, the agency sent the Petitioner a notice that his benefits would be ending on September 1, 2015, because he used up his three months of time-limited benefits.
14. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on August 24, 2015. (Exhibit 1)

DISCUSSION

Effective July 1, 2014, the Department of Health services implemented a new policy limiting benefits that childless adults in Kenosha, Racine and Walworth counties may receive. *FoodShare Wisconsin Handbook (FSH) §3.17.1.2* This policy is referred to as the Able Bodied Adults without Dependents (ABAWD) policy and was implemented statewide effective 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 a Non-ABAWD, if that person is:

1. Under 18 or age 50 and older,
2. Unable to work,
3. Residing in a FoodShare household with a child under age 18, or
4. Pregnant

FSH §3.17.1.4

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

1. Determined unfit for employment which includes:
 - a. Receiving temporary or permanent disability benefits
 - 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 a social worker.
2. Receiving Unemployment Compensation, or has applied for Unemployment Compensation and is complying with those work requirements;
3. Regularly participating in an alcohol or other drug addiction treatment or rehabilitation program; or
4. A student of higher education who is otherwise eligible for FoodShare (see section 3.15.1)
5. A high school student 18 years of age or older, attending high school at least half time;
6. A primary caregiver of a dependent child under age 6 or an incapacitated person;
7. Receiving Transitional FS benefits; or
8. Meeting the ABAWD work requirement.

FSH §3.17.1.4

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.

In the case at hand, the Petitioner does not dispute the fact that he meets the definition of an Able Bodied Adult Without Dependents.

The matter in dispute is whether the Petitioner complied with the ABAWD work requirement, by conducting an independent job search. However, it is not enough for the Petitioner to simply be looking for work. According to the FoodShare Wisconsin Handbook sections cited above, the Petitioner must both participate in **and** comply with a work program.

The Petitioner testified that he was not participating in an allowable work program between June 1, 2015 and August 31, 2015. The Petitioner testified that he was not working between those dates, either. Consequently, the Petitioner did not meet the ABAWD work requirement and the agency correctly ended his benefits on September 1, 2015.

The Petitioner argued that he could not enroll in FSET because by the time he received the appointment notices, the appointment passed. However, the Petitioner indicated that the notices were sent to his correct mailing address, but he only checked his mail once every two to three weeks.

The fact that Petitioner was not diligently checking his mail is not good cause for missing his intake/enrollment appointments.

It should be noted that the Petitioner indicated that he obtained employment on September 8, 2015 through a temporary agency. The Petitioner is reminded that he can regain eligibility by meeting the ABAWD work requirement (working 80 hours, participating in a work program for 80 hours, or a combination of the two). If Petitioner is working 80 hours per month, he should report that to the agency

and provide his paystubs as verification, so that he can re-open his FoodShare case, if he still wants FoodShare benefits.

CONCLUSIONS OF LAW

The agency correctly ended the Petitioner's FoodShare benefits effective September 1, 2015.

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 19th day of October, 2015.

\sMayumi M. Ishii
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 19, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability