



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/168683

PRELIMINARY RECITALS

Pursuant to a petition filed September 09, 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 October 07, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency erred in not adding petitioner's child to her FS case for August and September 2015.

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: [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 (CARES # [Redacted]) is a resident of Milwaukee County.
2. Petitioner had an ongoing FS case in 2015. On July 15, petitioner reported that her daughter was coming back to her home to live with her after previously living with the child's father per court order. The agency informed petitioner that it needed a copy of the new court order in order to add

the child as the placement with the father (and inclusion on the father’s FS case) was per a previous court order.

3. Petitioner provided the required court order on August 27, 2015.
4. The agency made the change to the petitioner’s FS case. But, at that time, FS had already been issued for the child on the father’s case.

DISCUSSION

Petitioner is seeking the August and September FS on behalf of her child who was living with her since the end of July 2015. But, the problem here is that it took petitioner until August 27, 2015 to provide the documentation sufficient for the agency to remove the child from the previously ordered placement with the father. This is reasonable given that the last valid order the agency had showed the child with the father. By the time the new documentation was submitted to the agency the allotment for September had already been processed to the father. This is unfortunate. But it is not error. It appears that the father could be subject to an overpayment recovery. But, FS for the same person (the child) cannot be paid on two cases.

CONCLUSIONS OF LAW

The agency did not err by not adding the child to petitioner’s FS case until the October 2015 allotment because petitioner provided the required documentation too late for the child to be added in August or September.

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.

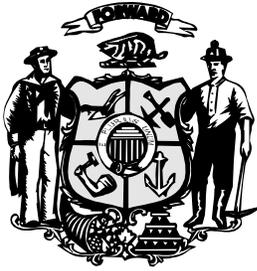
APPEAL TO COURT

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