



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/169419

PRELIMINARY RECITALS

Pursuant to a petition filed October 13, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on December 01, 2015, at Racine, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner's FS benefits effective November 1, 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: Rachel Petrick

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 Racine County.
2. On August 7, 2015, the Petitioner was referred to the FSET program. Petitioner attended an orientation on August 19, 2015.

3. At the orientation, an employment plan was developed for the Petitioner. It required the Petitioner to engage in 10 hours/week of job search activities for the week, 9 hours/week of customized skills training at [REDACTED], 1 hour/week of contact with [REDACTED] and 25 hours of a workshop [REDACTED] to Success.
4. On August 24, 2015, the Petitioner submitted job search logs for week 3 of August showing 1.5 hours logged for job search activities. Only .5 hours was approved because Petitioner presented only one verification.
5. On August 28, 2015, the Petitioner submitted logs reporting 19 hours of [REDACTED] to Success activities during the week of August 24, 2015.
6. Petitioner used one month of time-limited benefits for August, 2015 because she did not meet work requirements.
7. On September 3, 2015, the Petitioner submitted job logs for week 4 of August showing .5 hours. No hours were approved due to no verifications being presented. Petitioner also attended 5 hours of [REDACTED] workshop that day.
8. On September 10, 2015, the Petitioner submitted a written statement to the agency reporting that her soon-to-be ex-husband moved in with her.
9. On September 11, 2015, Petitioner submitted job logs for week 1 of September showing 5 hours of job search. The agency approved 2.5 hours based on verifications submitted. Petitioner also had 4.75 hours of participation in [REDACTED] and 5 hours of participation in [REDACTED] to Success workshop.
10. On September 16, 2015, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of her household composition. The due date for the information was September 25, 2015.
11. On September 25, 2015, the Petitioner reported employment with [REDACTED] [REDACTED] and [REDACTED]. Also, the Petitioner submitted job logs for week 2 of September showing 3.75 hours of participation. The agency approved 2.75 hours based on verifications. Petitioner also had .5 hours of participation in [REDACTED].
12. On September 28, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her FS would end effective November 1, 2015 due to not providing requested information.
13. On September 28, 2015, the Petitioner submitted a copy of her residential lease from July 1, 2015 – June 30, 2016. Petitioner's husband RG was listed as a tenant.
14. On October 5, 2015, the agency determined the Petitioner did not meet work requirements for September, 2015. The Petitioner did not complete any job search, [REDACTED] activities or Gateway activities during weeks 3 – 5 in September.
15. On October 7, 2015, the Petitioner reported employment with [REDACTED] and [REDACTED].
16. On October 8, 2015, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of employment and income from [REDACTED] and [REDACTED], and information regarding utility expenses. The due date for the information was October 19, 2015.
17. On October 20, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her FS would end effective November 1, 2015 for failure to provide requested information and for using three months of time-limited benefits (August, September and October, 2015) without meeting a work requirement.
18. For October, 2015, the Petitioner did not submit verification of any participation in her employment plan activities. Petitioner did not submit any employment or income verifications from [REDACTED] or [REDACTED].

19. On October 13, 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.

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 she does not fulfill the work requirement, she 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 she 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.

In this case, there are issues regarding the Petitioner's household composition, employment/income verification and FSET participation.

The Petitioner testified at the hearing that as of mid-November, her ex-husband no longer lives with her. She had not been able to submit verification of her rent and living arrangement because her landlord did not change the lease to include her name. With her ex-husband moving out, she will be able to get a lease in her name.

The Petitioner conceded that she did not provide the requested verifications of employment/income for purposes of determining FS eligibility and for determining whether she is meeting FSET work requirements.

With regard to employment/income verification, she testified that she works 33 – 35 hours/week at [REDACTED] but does not get a paper pay statement so she had nothing to submit to the agency. She stated that she does not have a printer at home so she could not print her statements. The agency representative advised the Petitioner that there are printers available at the agency for her to print statements and submit verifications.

Based on the evidence provided, I conclude that the agency properly discontinued the Petitioner's FS benefits effective November 1, 2015 for failure to provide required information regarding employment/income and household composition and for using 3 months of time-limited FS benefits without meeting FSET work requirements.

Petitioner was advised that if she is working more than 20 hours/week, she can re-apply and she will not be referred to FSET as long as she is continuing to work at least 20 hours/week.

CONCLUSIONS OF LAW

The agency properly discontinued the Petitioner's FS benefits effective November 1, 2015 for failure to provide required information regarding employment/income and household composition and for using 3 months of time-limited FS benefits without meeting FSET work requirements.

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.

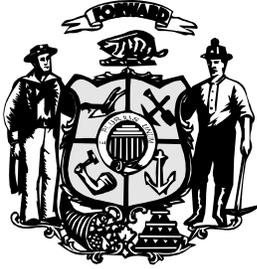
APPEAL TO COURT

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 29th day of December, 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 December 29, 2015.

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