



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed October 21, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Portage County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 11, 2015, at Stevens Point, Wisconsin.

The issue for determination is whether the petitioner is eligible for backdated Foodshare benefits.

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]

Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County.
2. On May 22, 2015, the agency conducted a phone interview for renewal with the Petitioner.
3. On May 26, 2015, the agency issued a Notice of Action and Proof Needed to the Petitioner indicating that she was required to sign her application as well as provide additional verification

of employment. The due date for the requested action and information was June 4, 2015. Exhibit R-6.

4. The respondent closed petitioner's FS benefits effective June 1, 2015, via notice dated June 4, 2015. Exhibit R-4.
5. On June 9, 2015, the signature page was received. On August 31, 2015, petitioner's paystubs were received. See, Exhibits R-7 and R-12.
6. On October 6, 2015, petitioner reapplied for FS benefits. Following receipt of updated employment verification, petitioner was approved for FS benefits effective October 15, 2015.
7. On October 21, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals..

DISCUSSION

As a first point, petitioner appealed refusals to backdate FS and child care. The child care issue will be discussed in a separate decision.

An FS recipient must do a periodic review to continue eligibility. 7 C.F.R. §273.14. Failure to complete a review results in the closing of the case. If the review is not completed until after the case is closed because of household error or inaction, the FS are not issued in full. Instead, the case is treated as a new application, and benefits are to be prorated as of the date of the review. See, 7 C.F.R. §273.14(e)(3); FS Handbook, § 2.2.1.4.

The agency declined to open the Petitioner's child care benefits before October 1, 2015, because FS eligibility can only be backdated if verification is received within the month following case closure. In petitioner's case, that means that verification would have had to have been received in June, 2015. It was not received until August, 2015. The pertinent FS Handbook language reads as follows:

FS that close at recertification may reopen without requiring a new application under specific conditions. Allow FS to reopen at recertification if the requested action to resolve ineligibility is completed in the month following the end of the current certification period, as long as the interview was timely.

- An interview must be completed within the review month of the current certification period to be considered timely. If the HH fails to complete a timely interview, FS will close effective the last day of the review month at adverse action and a new FS application is required.
- If FS close for lack of verification after a timely review and the household takes the required action within the calendar month following the certification period, the agency shall reopen FS and prorate benefits from the date the household took the required action. The new certification period will begin the month after the month the review was due.
- If FS close for lack of signature after a timely review and the household returns the signature page within the calendar month following the certification period, the agency shall reopen FS and prorate benefits from the date the household returns the signature page. The new certification period will begin the month after the month the review was due.

- If FS close due to agency delay in scheduling the interview or the HH is not available to complete the interview until the end of the review month, benefits shall be restored back to the first of the month to ensure ongoing benefits, as long as verification is timely.

Example 3: Holly completes a timely FS review on July 12, but does not have verification of her wages from Marigold's. Holly's worker, Jeff, issues a request for verification of earned income. Holly fails to provide verification and her case closes effective July 31. On Aug 5, Holly provides verification of her wages. Jeff changes the date on the FoodShare Request page to August 5 and issues prorated benefits from August 5 through August 31. Holly's previous FS certification period ended on July 31, 2007. Her new certification period runs from Aug 5, 2007 to July 31, 2008.

If Holly responded timely to Jeff's request for verification and submitted her verification in July, but Jeff did not process the verification until August, benefits would have been issued back to August 1, due to Jeff's late processing.

FS Handbook, § 2.2.1.4.

In this case, the Petitioner's eligibility was determined once the application was complete. This occurred when the Petitioner's employment verification was received on October 15, 2015. Thus, in accordance with the policy, the agency found the Petitioner to be eligible as of October 15, 2015.

The Petitioner testified that she was unaware that her employer had not supplied the employment verification previously. The respondent countered that it notified petitioner in writing of the termination, and that the petitioner had not contacted the respondent to report difficulty in obtaining the verification.

I recognize the difficulties in navigating the paperwork maze that is part of the process for FS benefits. However, neither the agency nor I have equitable authority to provide benefits contrary to the applicable policy. In this case, the policy only allows prorated as of the date of the review. The Petitioner received a notice in May, 2015 that she needed to sign the application to complete it by June 4, 2015. The signature page was not submitted until June 9, 2012. Similarly, employment verification was not timely submitted. Verification is the responsibility of the petitioner. Therefore, I must conclude that the agency properly denied the Petitioner's request to backdate FS benefits for June 1, 2015 – September 30, 2015.

CONCLUSIONS OF LAW

The Petitioner is not eligible for backdated FS benefits for the period of June 1, 2015 – September 30, 2015.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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.

[REDACTED]

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 15th day of December, 2015

\sPeter McCombs
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 15, 2015.

Portage County Department of Human Services
Division of Health Care Access and Accountability