



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/169803

PRELIMINARY RECITALS

Pursuant to a petition filed October 28, 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 November 24, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner can receive additional FoodShare in November 2015, if she did not report that her income had fallen until November 12, 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:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. The petitioner was an ongoing FoodShare recipient who was unable to work following November 12, 2015 due to pregnancy-related bedrest ordered by her medical provider.

3. The county agency was informed that petitioner's maternity leave would commence on December 7, 2015.

DISCUSSION

FoodShare rules hold that "[a]ll reported changes that cause an increase in the FS benefit...will be effective the first of the month following the report month." *FoodShare Wisconsin Handbook*, § 6.1.3.3.; see also, 7 CFR 273.12(c)(1). The petitioner was advised by her physician that she should be on bedrest commencing November 12, 2015. She seeks to overturn a benefits determination that reduced her benefits for the month of November to \$16.00, contending that her employer does not cover her maternity leave, and she cannot afford the substantial reduction in benefits.

I sympathize with the petitioner but have no power to grant her request. Administrative law judges lack equitable powers that would allow them to consider the fairness of the situation. Rather, they must apply the law as it is written. FoodShare rules do not allow additional benefits until the month after the recipient reports a change in income. Therefore, although I understand why the petitioner believes she is entitled to an increased FoodShare allotment for the month of November, 2015, I have no power to grant her request. Her benefit allotment should be increased effective December 1, 2015, in light of the fact that she notified the respondent at hearing of the commencement of her bedrest, and absence from work. The respondent may, however, require verification that petitioner's employer does not provide compensation under petitioner's circumstances.

CONCLUSIONS OF LAW

The petitioner is not entitled to additional FoodShare in November, 2015, because she reported the change in her income that month.

THEREFORE, it is

ORDERED

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

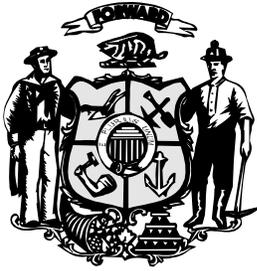
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 Madison,
Wisconsin, this 22nd 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 22, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability