



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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FWP/169889

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed November 5, 2015, under Wis. Admin. Code, §HA 3.03(4), to review a decision by the Rock County Dept. of Social Services to discontinue FoodShare benefits (FS), a hearing was held on December 9, 2015, by telephone.

The issue for determination is whether petitioner’s three-month limited benefits ended correctly.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

|

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: [REDACTED]  
Rock County Dept. of Social Services  
P.O. Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner applied for FS in June, 2015 as a single person household. He was referred to the FS Employment and Training program (FSET). He was scheduled for an orientation appointment on June 22.
3. Petitioner did not attend the June 22 appointment. No further action was taken by petitioner or the agency.

4. By a notice dated September 18, 2015, the county informed petitioner that FS would end October 1, 2015 because his three-month limited eligibility was ending. Benefits were not continued pending this decision.

### 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. 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 Rock County effective April 1, 2015, and FS recipients were required to meet the requirements beginning with a new application or the next FS review completed after April 1, 2015. FS Handbook, §3.17.1.2.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If he does not fulfill the work requirement, he is limited to receiving no more than three months' FS during a three year period. The program's requirements are specified in the Department's FS Handbook at §3.17.1. A person can be exempt from the program if he is unfit for employment, that is, he is unable to work as evidenced by a statement by a health care professional or social worker. FS Handbook, §3.17.1.5. Petitioner is not exempt.

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. Handbook, §3.17.1.7. The person is limited to three months of FS eligibility in which he is not meeting the 80-hour requirement and is not exempt. FS Handbook, §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). FS Handbook, §3.17.1.11.

The Department has an FSET Handbook at <http://www.emhandbooks.wisconsin.gov/fset/fset.htm> on the internet. It provides that the FSET agency should schedule an initial appointment within twelve days of the referral. FSET Handbook, §3.5.1. The agency correctly scheduled the appointment in this case. §3.5.1 then goes on: "If the individual misses their initial appointment, the FSET worker is expected to schedule a second appointment, which must be scheduled to occur within 12 calendar days of the missed appointment."

In this case the FSET agency failed to schedule a second appointment. I thus will conclude that petitioner's three-month limit should not have been imposed. Petitioner should immediately schedule an appointment with FSET as his three-month clock will start running again following this decision.

### CONCLUSIONS OF LAW

The county erred by imposing a three-month limit on petitioner's FS when the FSET agency failed to schedule mandated appointments.

**THEREFORE, it is**

**ORDERED**

That the matter be remanded to the county with instructions to remove the imposed three-month FS limitation on petitioner's case, to issue petitioner appropriate FS retroactive to October 1, 2015, and to refer petitioner back to the FSET program. The county shall do so within 10 days of this decision.

**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 10th day of December, 2015

---

\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 10, 2015.

Rock County Department of Social Services  
Division of Health Care Access and Accountability