



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/170023

PRELIMINARY RECITALS

Pursuant to a petition filed November 10, 2015, under Wis. Admin. Code § HA 3.03(1) to review a decision by the Milwaukee Enrollment Services in regards to the discontinuance of FoodShare benefits (FS), a hearing was held on December 3, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Department, by its agents, correctly discontinued the petitioner’s FS effective October, 2015, due to work program non-compliance for three time-limited benefit months.

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], HSPC
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. He was referred for Food Share Employment and Training enrollment on June 11, 2015.

2. On June 12, 2015, the FSET agency sent the petitioner a letter informing him of an enrollment appointment on June 23, 2015.
3. The petitioner enrolled in FSET on June 23-24, 2015; and he executed at Employability Plan requiring him to perform employment search for 10 hours per week, and performed Work Experience duties for 10 hours per week, effective June 24, 2015. The petitioner executed this Employability Plan.
4. Subsequently, the petitioner did not file any employment search logs or perform assigned Work Experience. He did not perform work search activities. Rather, he accepted two very short term part-time temporary jobs, and he did not report them to the agency either.
5. The petitioner has never provided any proof of how many hours of work he performed in any job in July, August & September, 2015, to FSET or to the Administrative Law Judge in the hearing process.
6. The FSET agency determined that the petitioner had not completed his assigned FSET activities for June, July and August, 2015, because the petitioner did not file employment search logs or attend Work Experience activities during those months.
7. On September 18, 2015, the Department issued a Notice to the petitioner informing him that he had failed to participate in FSET in three time-limited benefit months and his FS would be discontinued effective October 1, 2015, for this reason.
8. On November 10, 2015, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the discontinuance of his FS on October 1, 2015; benefits were not continued pending the hearing process.

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 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. 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.

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. 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). Handbook, §3.17.1.11.

In this case petitioner neither met an exemption nor met the work requirement in any of the three months after the work requirement began. At the hearing, he verbally asserted without any documentation that he did do some temporary work in parts of August & September, 2015, but he did not document in any way

that he did so, or that he reported it to the FSET agency. He also admitted he did not perform or report any employment search or perform any assigned Work Experience.

Petitioner did not meet the work program requirements for employment search or Work Experience in July, August and September, 2015. He admits this is so. He also has not established that he worked 80 hours in any month or that he reported the same to FSET. The petitioner acted unilaterally to accept temporary work and not report it, and he has not verified or shown his work activities in this hearing either.

Based upon this record, I can only conclude that he did not meet the FSET requirements for July, August and September, 2015 because he did not report sufficient job contacts or participate in Work Experience. I also must conclude that the agency correctly ended FS after the petitioner failed to meet the work requirement for three months. As noted, petitioner can become eligible again if he meets the requirement for a 30-day period and then reapplies.

CONCLUSIONS OF LAW

Petitioner failed to meet the FS work requirement for three months, and thus the agency correctly discontinued FS under the new time limited benefit policy for able-bodied adults without dependents.

THEREFORE, it is **ORDERED**

That the petition for review is hereby 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 4th day of December, 2015

\sKenneth D. Duren, Assistant Administrator
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 4, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability