



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/170061

PRELIMINARY RECITALS

Pursuant to a petition filed November 09, 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 December 08, 2015, at Milwaukee, Wisconsin.

There is no issue for determination.

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:

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

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

DISCUSSION

Petitioner filed a Request for Hearing indicating, in part, a denial of FoodShare benefits. At hearing, the respondent testified that petitioner last received FoodShare benefits in 2012. At that time his FoodShare benefits were discontinued due to failure to complete a renewal. Petitioner has not completed a new FoodShare application since that time. As such, there is no FoodShare decision to presently review.

Assuming, *arguendo*, that petitioner seeks to appeal the 2012 discontinuance, I note that his appeal is untimely, and I therefore lack the jurisdiction to review that discontinuance. When an agency takes a negative action against an FS household, such as discontinuing FS, the household must appeal within 90 days of the negative action. 7 C.F.R. §273.15(g); see also Wis. Admin. Code, §HA 3.05(3)(b). All computer generated notices issued by the Department include language informing recipients of the appeal rights and deadlines, including the specific date by which an appeal must be filed. Petitioner's appeal seeking review of the 2012 discontinued FS, thus, is untimely.

CONCLUSIONS OF LAW

1. Petitioner has not recently applied for FoodShare benefits, and as such no decision by respondent is ripe for review at this time.
2. Petitioner's last negative decision regarding FoodShare occurred in 2012, and any appeal of that decision would be untimely.

THEREFORE, it is

ORDERED

Petitioner's appeal is hereby dismissed in its entirety.

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