



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/170108

PRELIMINARY RECITALS

Pursuant to a petition filed November 12, 2015, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 8, 2015, by telephone.

The issue for determination is whether the agency should have added petitioner’s children to her FS household effective November 1, 2015.

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 Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner was receiving FS as a one-person household. On October 13, 2015 petitioner reported a change of address and that her two children had returned to her home on October 1.
3. On October 16 the agency requested verification of the children’s living arrangement. Verification was not received by the October 26 deadline and a new request was sent on October 28. Petitioner provided the verification on October 30.

4. By a notice dated November 6, 2015, the agency informed petitioner that her FS would increase. The first page of the notice stated that effective November 1 FS would increase to \$511, but the second page stated that petitioner would receive \$194 in November and then \$511 in December.
5. The children remained on their grandmother's case for November, meaning that they could not be added to petitioner's case until December.

DISCUSSION

7 C.F.R. §272.4(e)(1) provides as follows: "Each State agency shall establish a system to assure that no individual participates more than once in a month, in more than one jurisdiction, or in more than one household within the State in the Food Stamp Program." As a result the FS Handbook, Appendix 3.4.1 provides that a person cannot be a member of more than one food unit in the same month, with an exception of residents of shelters for battered persons.

If a person reports a change that will result in increased FS, the general rule is that the increase will take place in the month after the change is reported. 7 C.F.R. §273.12(c)(1). The FS Handbook, Appendix. 6.1.3.3, requires:

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification.

If verifications are not received within 10 days, and the FS case is not closed for at least one day, make the change effective the first of the month following the month verifications are received.

Normally the change could have been effective November 1 because petitioner provided the verification on October 30. However, the children had been on their grandmother's case, and by the time the verification was received, FS for November already were issued to the grandmother. Since the children received FS on their grandmother's case in November, they could not be added to petitioner's case until December.

CONCLUSIONS OF LAW

The county correctly added petitioner's children to her FS effective December 1, 2015 because they received FS on their grandmother's case in November.

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 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
Internet: <http://dha.state.wi.us>

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

Milwaukee Enrollment Services
Division of Health Care Access and Accountability