



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/171038

PRELIMINARY RECITALS

Pursuant to a petition filed December 30, 2015, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Sauk County Department of Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on February 17, 2016.

The issue for determination is whether the county agency correctly ended the petitioner’s FoodShare benefits because he did not complete the program’s work requirements.

There appeared at that time 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]
Sauk County Department of Human Services
505 Broadway, 4th Floor
PO Box 29
Baraboo, WI 53913

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. The petitioner is an ongoing FoodShare recipient. Petitioner’s FS benefits ended December 31, 2015, because he failed to complete the program’s work requirements.

3. The petitioner has not been employed since he renewed his FoodShare benefits.
4. The petitioner has not participated in the Food Stamp Employment and Training program despite several notices from the county agency informing him that he must do so.
5. The petitioner has not been found disabled. His physicians at [REDACTED] indicated the petitioner was unable to work from September 8-16, 2016, but have not documented any other inability to work, nor stated that he could return to work. He submitted no medical evidence that contradicts this.

DISCUSSION

Federal FoodShare law directs states to require recipients to work or participate in a Food Stamp Employment and Training Program (FSET) or a similar program. 7 CFR 273.7(a)(i). Wisconsin obtained a waiver that had made the FoodShare program's work requirements voluntary since 2008. In 2014, the state again made the work requirements mandatory. Wis. Stat. §49.79(10). Persons between 18 and 50 years old who are neither pregnant nor have children under 18 and who are mentally and physically able to work cannot receive FoodShare for more than three full months in any 36-month period unless they comply with the program's work requirements. 7 CFR § 273.24(b); Wis. Stat. § 49.79(1)(am) and (10)(a)2. To comply with these requirements, a person must work or participate in an authorized program at least 20 hours per week. 7 CFR § 273.24(a)(1). But a person does not have to meet these requirements if he has "good cause" not to. Federal regulations allow states discretion to determine what *good cause* is, but include the following requirement:

Good cause includes circumstances beyond the member's control, such as, but not limited to, illness, illness of another household member requiring the presence of the member, a household emergency, the unavailability of transportation, or the lack of adequate child care for children who have reached age six but are under age 12.

7 CFR § 273.7(2)

The county agency may verify good cause if there is a pattern of absences and the explanation of those absences is questionable. *FSET Handbook*, § 6.6.2. Persons who are unfit to work are exempt from work requirements. A person can be verified as unable to work by a statement from a health care professional or social worker. *FoodShare Wisconsin Handbook*, § 3.17.1.5.

The county agency notified the petitioner that it was ending his FoodShare benefits as of December 31, 2015, because he had not complied with the FSET requirements. He concedes that he was notified of these requirements and has not fulfilled them, but he contends that he cannot work because of his present diagnoses, which include arthritis, two herniated disks, and carpal tunnel syndrome. The agency denied his request for an exemption because [REDACTED] only indicated that he was unable to work from September 8-16, 2015. Because there is no medical evidence that he cannot work, and he concedes that he has not complied with the FSET requirements, the county agency correctly seeks to end his benefits.

CONCLUSIONS OF LAW

The county agency correctly ended the petitioner's FoodShare benefits effective December 31, 2015, because he has not complied with the program's work requirements.

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 14th day of March, 2016.

\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 March 14, 2016.

Sauk County Department of Human Services
Division of Health Care Access and Accountability