



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/171342

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on February 03, 2016, at Janesville, Wisconsin.

The issue for determination is whether the respondent correctly close petitioner's FS case.

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:

Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a resident of Rock County.
2. At all times material hereto, petitioner was a resident of (RVCP), which provides meals for its clients.

3. RVCP has notified the respondent that it will not be signing authorized representative forms for its clients.
4. The respondent terminated the petitioner's FS benefits effective January 31, 2016, due to RVCP's provision of meals to petitioner.

DISCUSSION

Petitioner has resided at RVCP, and that organization's Mission Statement provides as follows:

RVCP, Inc.'s mission is to provide transitional and supportive housing and addictions and mental health treatment services to adults in the Rock County Area, through evidence based models for the future and continued success of our clients, transforming their lives in positive directions.

RVCP, Inc. will provide these services to homeless male veterans, clients connected to the criminal justice system, and outpatient care to anyone needing assistance with addiction and/or mental health treatment.

RVCP, Inc. will develop and administer programs through partnerships with community and governmental agencies to serve our clients' best interests for positive outcomes while balancing public safety and accountability.

RVCP, Inc. programs will provide the opportunity for education and treatment; as well as guidance in the areas of community services, substance abuse, social skills, cognitive restructuring, employment and independent living.

See, <http://www.rvcp.org/Pages/default.aspx>

RVCP provides its clientele with meals, and has indicated to the respondent, in writing, that, "[w]e will not be signing the [authorized representation] forms for our clients as they are provided food while at our facility.

Based upon that representation the respondent determined that RVCP's clients are not eligible for FS benefits.

FS policy states that:

3.2.1.4 Institution

7 CFR 273.1(b)(7)

An institution is any establishment that provides care and/or services above and beyond meals and lodging.

A resident of an institution is anyone who receives most of his/her meals as part of the institution's normal operation.

Residents of institutions are ineligible for FS.

Some facilities appear to be institutions but are not. Persons living in the following licensed or authorized facilities may be eligible for FS:

1. Shelters for the homeless,
2. Group living arrangements ,
3. Drug and alcohol addiction treatment centers,

4. Shelters for battered women and children,
5. Section 202, 221(d)(3), and 236 housing, and all residents of any federally subsidized housing for the elderly.

FoodShare Wisconsin Handbook §3.2.1.4.

RVCP certainly meets the definition of an institution, as described in the *FS Handbook*. Petitioner, however, argues that the food served there is cold, and that the salad bar has cross contamination. As such, he prefers to prepare his own food. The petitioner has not established the validity of his claims with anything more than his sworn testimony, and I am unaware of any exceptions to the policy cited above that plainly indicates that residents of institutions are ineligible for FS.

CONCLUSIONS OF LAW

Petitioner is a resident of an institution that provides meals, and is, therefore, ineligible to receive FS benefits

THEREFORE, it is

ORDERED

That petitioner's appeal 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 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.

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