



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FWP/172346

PRELIMINARY RECITALS

Pursuant to a petition filed February 29, 2016, under Wis. Admin. Code § HA 3.03(4), to review a decision by the Dunn County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 23, 2016, at Menomonie, Wisconsin.

The issue for determination is whether the county agency correctly ended the petitioner's FoodShare benefits because she failed to comply with the program's work requirements.

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:

Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES #) is a resident of Dunn County.

2. The Great River Consortium notified the petitioner on February 17, 2016, that her FoodShare benefits would end on March 1, 2016, because “[y]ou have used 3 months of time-limited benefits without meeting a work requirement during those 3 months.”
3. The petitioner was fired from [REDACTED]. She applied for unemployment, but those benefits were denied.
4. The Northern Consortium referred the petitioner to the FoodShare Employment and Training program on December 18, 2015. She has not participated in that program.
5. The petitioner received FoodShare while not working or participating in the FSET program for 90 days.

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, which had made the FoodShare program’s work requirements voluntary since 2008. In 2014, the state again began making the work requirements mandatory. Wis. Stat. §49.79(10). Able-bodied adults under 50 years old 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).

A person receiving unemployment compensation is not considered an able-bodied adult. In addition, a “person who has applied for, but is not yet receiving, unemployment compensation is also exempt if that person is complying with work requirements that are part of the Federal-State unemployment compensation application process.” Wis. Stat. § 49.79(1)(am)6, referring to 7 CFR § 273.24(c)(5), which refers to 7 CFR § 273.7(b)(1)(v).

The county agency ended the petitioner’s FoodShare benefits because she had received those benefits for at least 90 days after she was fired from [REDACTED]. She applied for unemployment compensation, but her application was denied and a subsequent appeal upheld that denial. She contends that the time she was waiting for that decision should not count toward the 90 days. I disagree because there is no evidence that she complied with the unemployment compensation program’s work requirements while waiting for a decision. She concedes that she has not worked or participated the FSET program for at least 90 days while receiving FoodShare. Therefore, the agency correctly ended her FoodShare participation.

CONCLUSIONS OF LAW

The county agency correctly ended the petitioner’s FoodShare benefits because she is an able-bodied adult who did not meet the program’s work or job-training requirements for at least 90 days.

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 15th day of April, 2016

\sMichael D. O'Brien
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 April 15, 2016.

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