



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/172731

PRELIMINARY RECITALS

Pursuant to a petition filed March 09, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Oneida County Department of Social Services in regard to FoodShare benefits (FS), a telephonic hearing was held on March 31, 2016, at Rhinelander, Wisconsin.

The issue for determination is whether the county agency correctly denied increasing petitioner's FoodShare (FS) benefits during February, 2016 from \$99, but instead increased her FS to \$357 as of March 1, 2016, due allegedly to untimely income verification.

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: [Redacted] ES Supervisor
Oneida County Department of Social Services
Oneida Avenue
PO Box 400
Rhinelander, WI 54501

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Oneida County.
2. The petitioner receives FoodShare (FS) benefits for a household of two.

3. On January 26, 2016, petitioner timely reported to the county agency that she would be taking medical leave from her employment due to significant spinal fusion surgery. Petitioner also timely reported to the agency her final day of work would be February 3, 2016, and would receive her final employment check on February 10, 2016.
4. On February 1, 2016, the agency received a reported from petitioner's employer, [REDACTED], that petitioner's would be out of work for 6-8 weeks with no pay.
5. Petitioner underwent her spinal fusion surgery on February 4, 2016.
6. The agency sent a January 27, 2016 Notice of Proof to the petitioner that she needed to submit verification of her pay stubs from her employer by February 12, 2016.
7. The county agency sent a February 8, 2016 Notice of Decision to the petitioner stating that her FS benefits would increase from \$99 to \$357 effective March 1, 2016, due to a reduction in her earned income due to her medical leave from her employment.
8. The county agency denied increasing petitioner's FS from \$99 for the month of February because petitioner's February 10, 2016 paystub from her employer was not received by the agency until February 22, 2016 (10 days after the "due date").
9. During the March 31, 2016 hearing, petitioner established with convincing testimony that she attempted to provide her February 10, 2016 pay stub to the agency prior to February 22nd, but was medically unable to do so due to pain and heavy sedation to control her post-surgical pain.
10. The county agency did not submit any testimony or evidence that it assisted the petitioner in obtaining her employment verification, even though the agency was fully aware that petitioner required assistance due to recovering from significant spinal surgery.

DISCUSSION

When dealing with the issue of the provision of information by a household, there is a clearly delineated process and a case may not be denied or discontinued unless those procedures are followed. That process is to specify in writing, what information is needed, and that the client has no less than a specific period of time in which to provide it. Generally that period of time is 30 days. However, in cases involving application or review, where the 30-day processing limit would not permit this much time, the agency is to allow no less than 10 days. Furthermore, **the agency is required to assist the client when the client runs into difficulty in obtaining the needed documents.** (See 7 C.F.R. §273.12(c); Income Maintenance Manual (IMM), Ch. I, Part C, 5.1.0).

During the March 31, 2016 hearing, the county agency representatives contended that the agency correctly denied increasing petitioner's February, 2016 FS benefits because one paystub was not received until 10 days after the verification due date. However, petitioner provided convincing testimony that she attempted to timely provide her February 10, 2016 pay stub to the agency prior to February 22nd, but was medically unable to do so due to pain and heavy sedation to control her post-surgical pain. Furthermore, the agency failed to assist the petitioner with her employer verification as required by 7 C.F.R. §273.12(c), even though the agency was fully aware that petitioner required assistance due to recovering from significant spinal surgery. Accordingly, based upon the above, I conclude that the county agency incorrectly denied increasing petitioner's FoodShare (FS) benefits during February, 2016 from \$99, but instead increased her FS to \$357 as of March 1, 2016.

CONCLUSIONS OF LAW

1. The petitioner established good cause for not submitting some income verification to the county agency until February 22, 2016.
2. The county agency failed to provide required assistance to the petitioner to obtain needed verification due to her spinal surgery, as required by 7 C.F.R. §273.12(c).
3. The petitioner is entitled to increased FS benefits for a FS household of two for the month of February, 2016.

THEREFORE, it is

ORDERED

The matter is remanded to the county agency with instructions to: a) re-calculate the petitioner's increased FS benefits for a FS group of two for the month of February, 2016 based upon the above Conclusions of Law; and b) send a FS supplement to the petitioner for her increased FS benefits for the month of February for a FS household of two, within 10 days of the date of this Decision.

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 7th day of April, 2016

\sGary M. Wolkstein
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 7, 2016.

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