



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FWP/172880

PRELIMINARY RECITALS

Pursuant to a petition filed March 18, 2016, under Wis. Admin. Code, §HA 3.03(4), to review a decision by the Juneau County Dept. of Human Services to reduce FoodShare benefits (FS), a hearing was held on April 21, 2016, at Mauston, Wisconsin, with the judge appearing by telephone.

The issue for determination is whether the county correctly declined to issue FS for the months of February and March, 2016 when it reopened petitioner’s FS for April.

PARTIES IN INTEREST:

Petitioner:



;

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: 
Juneau County Dept. of Human Services
220 E. LaCrosse Street
Mauston, WI 53948

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Juneau County.
2. Petitioner receives FS in a two-person household with his wife. In late 2015 petitioner was not listed as working or in the FS Employment and Training (FSET) program.
3. On January 19, 2016 the county notified petitioner that he would be removed from the FS household effective February 1, 2016 because his three-month time-limited benefits were ending.

4. On February 10 petitioner contacted the county and reported that he had been working since November. The county requested verification, but petitioner provided only copies of two personal checks. He then reported that it was self-employment/independent contractor work, so the county asked petitioner to file self-employment reports for the prior three months. Petitioner did not file the completed self-employment reports.
5. On February 28 petitioner also reported that he was now employed by [REDACTED]. The county asked him to verify the employment with a deadline of March 9. On March 11 the county received an employer verification report from [REDACTED] showing that petitioner began work on February 16, 2016 at 20 hours per week.
6. The county added petitioner back to the FS household effective April 1, 2016.

DISCUSSION

Pursuant to a provision of Wisconsin's 2007-2009 biennial budget, Wisconsin has operated a voluntary FoodShare Employment and Training (FSET) program since 2008. The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) limits the receipt of FS benefits to three full months in a 36-month time period for Able-Bodied Adults without Dependents (ABAWDs) who do not meet the work requirement or meet an exemption from the work requirement. As part of Wisconsin's 2014-15 biennial budget, 2013 Wisconsin Act 20 created Wis. Stat., §49.79(10), which mandated FS eligibility and work requirements for ABAWDs to be implemented in Wisconsin beginning in 2014, consistent with federal regulations 7 CFR §273.7 and 7 CFR §273.24.

Under Wis. Stat., §49.79(10), an ABAWD is required to fulfill a work requirement. If he does not fulfill the work requirement, he is limited to receiving no more than three months' FS during a three year period. The program's requirements are specified in the Department's FS Handbook at §3.17.1. A person can be exempt from the program if he is unfit for employment, that is, he is unable to work as evidenced by a statement by a health care professional or social worker. Handbook, §3.17.1.5. Petitioner did not claim an exemption.

To meet the work requirement the ABAWD must work a minimum of 80 hours per month, participate in a work program 80 hours per month, or a combination of both for 80 hours per month. Handbook, §3.17.1.7. The person is limited to three months of FS eligibility in which he is not meeting the 80-hour requirement and is not exempt. Handbook, §3.17.1.9. FS ends after three months of failing to meet the work requirement, but eligibility can begin again if the person becomes exempt or meets the work requirement for a 30-day period (the person could reapply for FS *after* meeting the requirement for 30 days). Handbook, §3.17.1.11.

There are two issues in this appeal. First, petitioner testified that he actually was working in the three months prior to February 1, 2016. However, he never verified his hours, so the county could not simply accept his word that he was working 20 hours per week (particularly since he had not reported the job in the first place).

Second, petitioner asked to be put back on the case retroactively. 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.

Petitioner testified that the late verification was because the employer had to send the forms to Appleton and it took them longer to get them in. However, the FS policy does not include a good cause exception for the late verification. I must conclude that the county correctly added petitioner back to the FS household as of April 1, 2016.

CONCLUSIONS OF LAW

1. The county correctly removed petitioner from his FS household because he used up his three-month limited time benefits without being in FSET or verifying that he worked twenty hours per week.
2. The county correctly added petitioner back to the FS household effective April 1, 2016 because he missed the March 9 deadline for verifying employment that would satisfy the ABAWD rules.

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 25th day of April, 2016

\sBrian C. Schneider
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 25, 2016.

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