



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/173370

PRELIMINARY RECITALS

Pursuant to a petition filed April 04, 2016, under Wis. Admin. Code § HA 3.03(4), to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on May 04, 2016, at Janesville, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner's FoodShare for failing to meet Able-Bodied Adult without Dependent (ABAWD) work requirements.

There appeared at that time and place 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]
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner filed this appeal to contest the discontinuance of his FoodShare benefits effective January 1, 2016. Those benefits were discontinued for an alleged failure to participate in the

FoodShare Employment and Training (FSET) program as an Able-bodied Adult without Dependents (ABAWD) who was required to meet a work requirement. Exhibit 4.

3. Petitioner applied for FoodShare benefits on March 28, 2016. That application was denied, and the agency informed petitioner that the denial was due to the fact that he had used his 3-months of time limited benefits. Exhibit 4.
4. On March 4, 2016, petitioner provided respondent with a medical excuse from his treating provider that states: "To Whom It May Concern: [Petitioner] was seen in my office for 06/23/2015. This person may return to work on 06/23/2015 with the following permanent work restrictions: No lifting over 15 pounds, no standing or walking over two hours a day. ..." See Exhibit 4.

DISCUSSION

Effective July 1, 2014, Wisconsin began the Able-Bodied Adults without Dependents (ABAWD) policy in Kenosha, Racine and Walworth counties. *FoodShare Wisconsin Handbook (FSH) §3.17.1.2*. This was implemented statewide as of April 1, 2015. *Id.* Under ABAWD rules, childless, able-bodied adults must either meet ABAWD work requirements or be exempt from the work requirement in order to receive FoodShare benefits. *FSH §3.17.1.1*. ABAWDs who are not exempt and who do not meet the work requirement are only allowed to receive 3 full months of time-limited benefits in a 36-month period. *Id.*

A person is considered an ABAWD, if that person is:

- ...
- 18 to 49 years in age*;
- Able to work;
- Not residing in a household with a child under age 18 (regardless of the individual's relationship to the child, whether the child is included in the individual's FS assistance group, or the child's FS eligibility status); and
- Not pregnant.

...
FSH §3.17.1.4.

An ABAWD may be exempt from work requirements if the person:

1. Is determined unfit for employment, which includes someone who is:
 - a. Receiving temporary or permanent disability benefits from the government or a private source;
 - b. Mentally or physically unable to work, as determined by the IM agency;
 - c. Verified as unable to work by a statement from a health care professional or social worker;
2. Is responsible for the care of a child under age 6 or caring for an incapacitated person, either of which live outside the home;
3. Is receiving Unemployment Compensation (UC), or has applied for UC and is complying with UC work requirements;
4. Is regularly participating in an alcohol or other drug addiction (AODA) treatment or rehabilitation program;
5. Is a student of higher education and is otherwise eligible for FS ([3.15.1](#));
6. Is a full-time high school student age 18 or over;
7. Is receiving Transitional FS benefits; or
8. Is meeting the ABAWD work requirement.

FSH §3.17.1.5.

An ABAWD meets the ABAWD work requirement if one of the following applies:

1. Working a minimum of 80 hours per month. Use converted work hours if paid weekly or bi-weekly;
2. Participating and complying with an allowable work program at least 80 hours per month; * [includes FSET]
3. Both working and participating in an allowable work program for a combined total of at least 80 hours per month; or
4. Participating and complying with the requirements of a workfare program.
FSH, §13.17.1.7.

If not exempt from work requirements each FoodShare household member must register for work at the time of application and review. *FSH, §3.16.1.4.* As just noted, a person may meet the work requirement by participating in the FoodShare Employment and Training (FSET) program. *FSH, §3.17.1.17.*

I am declining to reverse this discontinuance of Petitioner's FoodShare. Petitioner argues that he is unable to work, but the medical excuse that he provides specifically indicates that he is able to work, albeit with restrictions. The FoodShare Handbook specifically provides an exemption for people unable to work. It does not allow an exemption for people who can only work subject to restrictions. Without anything further in the record to corroborate petitioner's claims of being unable to work, I am unable to determine that the respondent acted erroneously here when it denied petitioner's FS application.

CONCLUSIONS OF LAW

That the agency correctly discontinued Petitioner's FoodShare benefits for failing to meet ABAWD requirements – here FSET participation.

NOW, THEREFORE, it is **ORDERED**

That this 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 31st day of May, 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 May 31, 2016.

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