



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FBT/173640

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 13, 2016, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to deny a request for replacement FoodShare benefits (FS), a hearing was held on May 4, 2016, at Milwaukee, Wisconsin, with the judge appearing by telephone.

The issue for determination is whether petitioner is entitled to have FS replaced after reporting his card being stolen.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: [REDACTED]  
Milwaukee Enrollment Services  
1220 W. Vliet Street  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who receives FS.
2. On April 12, 2016 at approximately 1:00 p.m. petitioner's wallet with his FS Electronic Benefits Transfer (EBT) card was stolen. At 2:22 p.m. that day he contacted Milwaukee Enrollment Services to report the lost card.
3. At 1:29 p.m. on April 12 petitioner's personal identification number (PIN) was changed. At 1:33 his EBT card was used to purchase \$133.85 in groceries at Fast N Friendly. At 1:48 the card was

used again to purchase \$59.99 in groceries at another store. The two purchases used up almost all of petitioner's \$194 FS allotment for April.

4. On April 13 petitioner filled out a request for replacement of the stolen FS. The request was denied by a notice dated April 15, 2016.

### DISCUSSION

Beginning in 1999 the department began to provide an EBT card to FS recipients. The card allows recipients to access FS benefits through the EBT account instead of using paper documents. See Wis. Admin. Code, §DHS 252.04(1).

In order to access the EBT account, each FS recipient receives a personal identification number (PIN) number. Also, identifying information such as Social Security number, date of birth, and mother's maiden name are generally needed in order to change the EBT PIN number, and the benefits cannot be used without the PIN number. Information about a person's PIN number should not be made available to anyone other than the user of the card.

Wis. Admin. Code, §DHS 252.18 discusses liability for lost FS benefits and provides in pertinent part:

Liability for lost benefits. Benefits will not be replaced if lost as a result of the loss or theft of the EBT card and PIN up to the point in time that the recipient reports the loss to recipient customer service. Benefits will not be replaced if lost due to fraud committed, in total or in part, by the recipient. The department shall assure the replacement of benefits lost after the recipient or representative reports to recipient customer service that the card has been lost or stolen. The department also shall assure the replacement of benefits that are lost due to system errors or malfunctions.

The first report of a lost card in the agency's record was made on April 12, 2016 at 2:22 p.m., about 34 minutes after the card was depleted. Clearly the person who took the wallet moved rapidly, and the person was savvy enough to know how to change a PIN. It is probable that the necessary information to change the PIN was in petitioner's wallet.

That said, the state law does not allow replacement of any stolen FS used before "the point in time" that the person reports the lost card. It seems harsh, but because the thief moved so quickly to use the FS benefits, petitioner was unable to report the loss before they were used. The Division of Hearings and Appeals cannot contradict the state law, however, and therefore I must conclude that the agency denied replacement correctly because the FS were used before petitioner reported the loss.

### CONCLUSIONS OF LAW

The agency correctly denied replacement of FS lost due to a stolen EBT card because the FS were used before petitioner reported the loss.

**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 10th day of May, 2016

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\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 May 10, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability