



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of:



DECISION

FWP- 174428

**PRELIMINARY RECITALS**

On May 18, 2016, the above petitioner filed a Hearing request under Wis. Admin. Code § HA 3.03(4), to challenge a decision by the Crawford County Department of Human Services regarding FoodShare benefits ["FS"]. The Hearing was held via telephone from Madison, Wisconsin on June 21, 2016.

The issue for determination is whether it was correct to end petitioner's FS effective June 1, 2016.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

Department of Health Services

ESS  
Crawford County Department of  
Human Services  
225 N Beaumont Rd., Suite 326  
Prairie Du Chien, WI 53821

ADMINISTRATIVE LAW JUDGE:

Sean Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ; 28 years old) is a resident of Crawford County, Wisconsin.

2. Petitioner is subject to the Able-Bodied Adults without Dependents [“ABAWD”] FS work requirements.
3. During the months of March 2016, and April 2016, and May 2016 petitioner did not meet the ABAWD FS work requirements because, during each of those months, he did not work or participate in an allowable work program for a combined total of at least 80 hours per month.
4. An *About Your Benefits* letter notice dated May 18, 2016 was sent to petitioner informing him that his FS would end effective June 1, 2016 because he used 3 months of time-limited FS benefits without meeting the work requirement.

## DISCUSSION

Able-Bodied Adults without Dependents [“ABAWD”]<sup>1</sup> must either meet the ABAWD work requirement or an exemption from the work requirement in order to continue to receive FS. Non-exempt ABAWDs who do not meet the work requirement will only be allowed to receive up to 3 full months of Time-Limited Benefits [“TLB”] in a 36-month time period.<sup>2</sup> *FoodShare Wisconsin Handbook* [“FWH”] 3.17.1.1.; See also, Wis. Stat. § 49.79(10)(a) (2013-14); 7 C.F.R. §§ 273.7 & 273.24 (2015).

An FS member is determined an exempt ABAWD if he or she is an ABAWD who meets at least one of the following criteria, as determined by the Income Maintenance [“IM”] agency:

- Determined unfit for employment, which includes someone who is:
  - Receiving temporary or permanent disability benefits from the government or a private source;
  - Unable to work due to physical or mental challenges, as determined by the IM agency;
  - Displays mental instability, combativeness, or other mental health issues; the IM worker should consider the member unfit for work and document an exemption, without requiring verification from a health care professional;
  - Verified as unable to work by a statement from a health care professional or a social worker;
  - Experiencing chronic homelessness;
    - A person is chronically homeless if he or she currently lacks a fixed, regular nighttime residence and does not expect to have a regular nighttime residence in the next 30 days. This includes people who are in a temporary housing situation.
- Receiving Unemployment Compensation [“UC”] or has applied for UC and is complying with UC work requirements (Note: If UC is denied or has ended, the member is no longer exempt regardless of the reason);
- Regularly participating in an alcohol or other drug abuse [“AODA”] treatment or rehabilitation program;
- A student of higher education who is otherwise eligible for FS;
- A high school student 18 years of age or older, attending high school at least half-time;
- Primary caregiver of a dependent child under age 6 or an incapacitated person (may be part of the food unit or in a separate household);
- Receiving transitional FS benefits; or

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<sup>1</sup> An FS applicant or member is determined a **non**-ABAWD if he or she meets any one of the following criteria, as determined by the Income Maintenance [“IM”] agency: under age 18 or age 50 and older; unable to work; residing in a FS household with a child under age 18; or, pregnant. *FoodShare Wisconsin Handbook* [“FWH”] 3.17.1.4.

<sup>2</sup> ABAWD eligibility for FS is limited to three (3) months of Time-Limited FS Benefits [“TLB”] in a 36-month period in which the ABAWD is subject to, but is not complying with, the ABAWD work requirement and does not have a qualifying exemption. The three TLB months do not have to be consecutive. FWH 3.17.1.9.

- Meeting the ABAWD work requirement outside of FoodShare Employment and Training ["FSET"] through work and/or other allowable work program participation.

FWH 3.17.1.5.

An ABAWD is considered to be meeting 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 (allowable work programs include FSET, Refugee Employment and Training, Wisconsin Works ["W-2"], Trial Employment Match Program ["TEMP"], Children First, Workforce Investment Act ["WIA"] programs, Refugee Cash Assistance programs, and programs under section 236 of the Trade Act);
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.

FWH 3.17.1.7.

Petitioner did not meet the work requirements for 3 months (March 2016, April 2016, and May 2016) and has used-up all of his 3 full months of TLB. There is no dispute about this. There is no evidence that petitioner was mentally or physically unable to work. Petitioner testified that he is on probation and cannot be around minors and so could not participate in certain work experiences. He also testified that in late May 2016 he enrolled in an online college. None of this explains why he did not meet the work requirements for March, April, and May. There are many work experiences that do not involve being around minors.

### **CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct to end petitioner's FS effective June 1, 2016.

**THEREFORE, it is**

### **ORDERED**

That the petition for review herein be and the same 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.

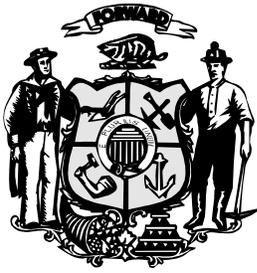
### **APPEAL TO COURT**

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, **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 28th day of 2016

\s \_\_\_\_\_  
Sean Maloney  
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 June 28, 2016.

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