

3. On April 8, 2016, petitioner appeared at respondent's office reporting that he was homeless and providing a new mailing address. On April 11, 2016, petitioner's FS re-opened with a break in service.
4. On April 11, 2016, respondent sent petitioner notice that he needed to complete a renewal by May 31, 2016. The renewal was not completed, and the respondent sent notice on May 18, 2016, advising petitioner that his FS would close on June 1, 2016.
5. On April 14, 2016, the respondent sent petitioner a notice of Administrative Disqualification Hearing set for May 16, 2016. Petitioner did not appear for hearing, and the administrative disqualification was sustained. See, *DHA Appeals* case no. FOF/173401. Per the decision in that matter, petitioner was sanctioned for a 12 month period, July, 2016-June, 2017.
6. On June 8, 2016, petitioner called and completed an FS renewal. He was found eligible for prorated FS for June, 2016, and denied thereafter pursuant to the administrative disqualification.

DISCUSSION

At hearing, petitioner focused more on the basis for the administrative disqualification, than on any specific grounds for continuing eligibility or any error by the respondent in determining his benefits eligibility. Notably, a 12-month sanction was imposed by the respondent pursuant to an Intentional Program Violation that was sustained following an Administrative Disqualification Hearing.

An IPV is defined at 7 C.F.R. §273.16(c) as intentionally: making a false or misleading statement or misrepresenting; concealing or withholding facts; or committing any act that constitutes a violation of the Food Stamp Act, federal regulations or any Wisconsin statute relating to the use, presentation, transfer, acquisition, receipt or possession of food stamp coupons or an authorization to participate (ATP) card.

The Department's written policy restates federal law, below:

3.14.1 IPV Disqualification

7 CFR 273.16

A person commits an Intentional Program Violation (IPV) when s/he intentionally:

1. makes a false or misleading statement, or misrepresents, conceals or withholds facts; or
2. commits any act that constitutes a violation of the Food Stamp Act, the Food Stamp Program Regulations, or any Wisconsin statute for the purpose of using, presenting, transferring, acquiring, receiving, possessing or trafficking of FoodShare benefits or QUEST cards.

An IPV may be determined by a federal, state, or local court order, an Administrative Disqualification Hearing (ADH) decision, or a prehearing waiver.

FoodShare Wisconsin Handbook, §3.14.1. The agency may disqualify only the individual who either has been found to have committed the IPV or has signed a waiver or consent agreement, and not the entire household. If disqualified, an individual will be ineligible to participate in the FS program for one year for the first violation, two years for the second violation, and permanently for the third violation. However, any remaining household members must agree to make restitution within 30 days of the date of mailing a written demand letter, or their monthly allotment will be reduced. 7 C.F.R. §273.16(b).

I have reviewed the record here, and have found not incidence of respondent error. Petitioner's requests for FS assistance were timely addressed, and his benefits reinstated when appropriate. The denial of

benefits commencing in July, 2016, are appropriate based upon the 12 month program sanction imposed by the respondent.

CONCLUSIONS OF LAW

The respondent has correctly determined petitioner's FS benefits between April 1, 2016, and July 1, 2016.

THEREFORE, it is ORDERED

That petitioner's appeal 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 5th day of August, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals



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The preceding decision was sent to the following parties on August 5, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability