



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO-174896

PRELIMINARY RECITALS

Pursuant to a petition filed June 10, 2016, under Wis. Admin. Code, §HA 3.05(1), to review a decision by Milwaukee Enrollment Services regarding FoodShare (FS), a hearing was held on July 12, 2016, at Milwaukee, Wisconsin, with the judge appearing by telephone.

The issue for determination is whether the agency correctly denied an increase in FS in the month of June, 2016 after initially informing petitioner that there would be an increase.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 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.
2. Petitioner received \$187 in FS in May, 2016. On June 2, 2016 petitioner reported to the agency that she went on unpaid leave from her employment. A worker removed petitioner's income from the FS budget, and a notice dated June 3 was sent to petitioner telling her that FS would increase to \$509 effective June 1, 2016.

3. The increase in FS did not occur. After petitioner inquired an agency representative informed her that the June 3 notice was incorrect; the change could not occur until July FS were issued.

DISCUSSION

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.

The FS rules require changes to be made in the month after the change is reported, not the month that the change occurs. There is no “good cause” language allowing the increased FS to begin in the month of the report.

I am puzzled why the June 3 notice could be sent at all; if a change is entered the system will make the change in the next month unless the worker affirmatively enters that the change was reported in an earlier month. Petitioner admitted that she did not report the change until June 2, and thus under FS rules mandated by the Code of Federal Regulations, the increase could not occur until July FS were issued. Therefore, despite the erroneous June 3 notice, the agency correctly declined to issue the increased FS for June, instead correctly waiting until July.

CONCLUSIONS OF LAW

The agency correctly declined to issue increased FS in June, 2016 when petitioner reported a change on June 2; FS rules mandate that the change take effect in the next benefit month.

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, **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 13th day of July, 2016

\s _____
Brian 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 July 13, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability