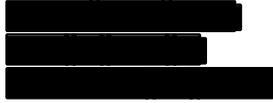




STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



**DECISION**  
Case #: FOO - 175386

**PRELIMINARY RECITALS**

Pursuant to a petition filed on July 7, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on August 9, 2016, by telephone from Madison, Wisconsin.

The issue for determination is whether the respondent correctly determined petitioner's July, 2016, FS benefits.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By:   
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County, who receives FS benefits.
2. The respondent informed petitioner that it needed income/employment verification, which was due June 30, 2016.

3. Petitioner's employer was uncooperative, and petitioner contacted the respondent as to other ways to provide the necessary verification.
4. On June 16, 2016, the respondent informed petitioner that she could provide a sworn statement in lieu of a statement from her employer.
5. Having not received verification, the respondent closed petitioner's FS case on July 1, 2016.
6. On July 7, 2016, petitioner provided a sworn statement, her case was updated, and her FS reopened on that date. Her July FS benefits were prorated.

### **DISCUSSION**

An agency and FS recipient must perform a periodic review of eligibility during specific time intervals (e.g., 12 months in many cases) as a condition of ongoing FS issuance to the recipient. 7 C.F.R. 273.14.(a); *FS Wisconsin Handbook (FSWH)*, 2.2.1, at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>.

The policy instruction is as follows:

#### **2.2.1.4 Review Processing Timeframe**

The 30-day processing timeframe for a review is not the same as it is for applications. The 30-day review processing timeframe refers to the review month. In other words, a review must be processed and confirmed by the last day of the review month unless there is an agency-caused delay such as allowing 10 days for verification. In those instances, the worker should document in CARES the reason for the late recertification and set the FS program request date for the first of the month so that there is no pro-ration of benefits.

The FS case will close effective the last day of the review month at adverse action of the review month if recertification is not completed, including confirmation. The local agency and the FS recipient have until the end of the review month to complete recertification.

FS that close at recertification may reopen without requiring a new application under specific conditions. Allow FS to reopen at recertification if the requested action to resolve ineligibility is completed in the month following the end of the current certification period, as long as the interview was timely.

- An interview must be completed within the review month of the current certification period to be considered timely. If the HH fails to complete a timely interview, FS will close effective the last day of the review month at adverse action and a new FS application is required.
- If FS close for lack of verification after a timely review and the household takes the required action within the calendar month following the certification period, ***the agency shall reopen FS and prorate benefits from the date the household took the required action.*** The new certification period will begin the month after the month the review was due.

[emphasis added]

*Id.*, 2.2.1.4.

The FS federal regulations agree with the above policy language:

(2) If a household files an application before the end of the certification period, but fails to take a required action, the State agency may deny the case at that time, at the end of the certification period, ... Notwithstanding the State's right to issue a denial prior to the end of the certification period, the household has 30 days after the end of the certification period to complete the process and have its application be treated as an application for recertification. ... If the household takes the required action [here, verification submission] after the end of the certification period but within 30 days after the end of the certification period, the State agency shall reopen the case and provide benefits *retroactive to the date the household takes the required action*. [here, September 9]

7 C.F.R. § 273.14(e)(2).

In this case, the petitioner did not fully complete a review by the end of the process month (June). Thus, the closure notice for July 1 was appropriate, and the resulting proration of FS benefits for July was correct.

### CONCLUSIONS OF LAW

The Department correctly closed the petitioner's FS case effective July 1, 2016, and correctly prorated her July, 2016, benefits when she turned in late income verification.

**THEREFORE, it is**

**ORDERED**

That the petition 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, **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 6th day of September, 2016

\s \_\_\_\_\_  
Peter 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 September 6, 2016.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability