



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/170075

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 11, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on January 12, 2016, at Waukesha, Wisconsin.

The issue for determination is whether the agency correctly denied the petitioner’s application for institutional Medicaid coverage for failing to provide requested verification.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Rebecca Tomilson

Waukesha County Health and Human Services  
514 Riverview Avenue  
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Waukesha County.
2. On August 28, 2015 the petitioner applied for institutional Medicaid (MA) coverage.

3. On September 15, 2015 the agency sent the petitioner a notice stating that they needed verification of various items in order to verify the petitioner's financial eligibility for institutional MA coverage.
4. When the petitioner's power of attorney received this notice, he and his wife contacted the agency worker, and left a voicemail. They wanted some assistance in obtaining the various financial documents requested as they did not believe that they would be able to get these items in the time allowed. The worker attempted to return the phone call; however, she noted that it was a fax number, and that she unable to reach anyone. She did not conduct any further follow-up. The number dialed was, and continues to be, the power of attorney's phone number. This number is not a fax number.
5. On September 29, 2015 the agency sent the petitioner a notice stating that her application for Institutional MA had been denied for failing to provide the requested verification.
6. The petitioner hired an attorney. On November 11, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.
7. Also in November 2015 the petitioner's attorney submitted a new application for institutional MA coverage. The petitioner was able to timely provide verification with that application. She is financially and otherwise eligible for institutional MA. She has institutional MA coverage effective August 1, 2015. At issue for this appeal are May 28, 2015 through July 31, 2015.

### DISCUSSION

At issue in this appeal is whether the agency correctly denied the petitioner's first application for institutional MA coverage for failing to provide the requested verification. The petitioner has since reapplied, supplied verification, and was approved for institutional MA coverage effective August 1, 2015. Given the date of the petitioner's new application that was the maximum allowable backdate. At issue for this appeal are May 28, 2015 through July 31, 2015.

Medicaid rules require recipients to verify relevant information, including assets. Wis. Admin. Code, § DHS 102.03(3)(h). According to Wis. Admin. Code, § DHS 102.03(1):

An application for MA shall be denied when the applicant or recipient is able to produce required verifications but refuses or fails to do so...If the applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but shall proceed immediately to verify the data elements

Agencies must allow at least 30 days from the date of application or 10 days from the date of the request, whichever is later, to verify the information. *Medicaid Eligibility Handbook (MEH)*, § 20.7.1.1. *see also* Wis. Admin. Code § DHS 102.03(1). If a person is having difficulty obtaining the requested verification, the agency may allow a person an additional 10 days to obtain the verification. *MEH*, § 2.7.1.

Medical assistance is meant to provide medical care to those who cannot afford it. Verification rules are meant to limit medical assistance to those who actually need it. The Verification rules in effect put the burden on those seeking benefits to prove that they are eligible but provide them with extensive flexibility in doing so. Workers are instructed not to "over verify," which occurs when the agency requires "excessive pieces of evidence for any one item." Workers are also instructed not to "exclusively require a particular type of verification when various types are possible" or to "verify information already verified unless [they] believe the information is fraudulent or differs from more recent information." And they are instructed to "[o]nly verify items necessary to determine eligibility for Medicaid." *Medicaid Eligibility Handbook*, § 20.2. Applicants and recipients must resolve questionable information, but workers must assist those who have "difficulty in obtaining" verification.

The petitioner's representative attempted to work with the agency to produce the requested verification. They were not being cagey or playing hide the ball. This petitioner was financially eligible for institutional MA. The representative contacted the agency, and left a voicemail. The agency worker indicated that she returned the call, but received a fax tone. The representative maintains that this was never a fax number, that it is still his number, and that the worker misdialed. I have no reason to doubt the representative. The worker stopped at the fax tone, which was her own mistake, and chose not to do any further follow-up. There were many ways for this worker to assist the petitioner's family who had reached out to her. She could have tried alternate numbers provided on the institutional MA application. She could have re-dialed the number. If she could not think of these options on her own, at a minimum she should have extended the deadline for verification by 10 days, and immediately sent the new notice to the representative. Even though the representative did not use the magic words that Waukesha County requires to extend the verification deadline, the spirit of the voicemail left was that they needed more time and assistance in providing the requested verification. Thus, the agency erred by not allowing them an additional 10 days as allowed under the MA guidelines.

Ordinarily, I would remand this case to the agency with instructions to allow an additional 10 days for the petitioner to provide the requested verification. This case is unique in that that verification has already been provided, and the agency has already determined that the petitioner is financially eligible for institutional MA coverage effective August 1, 2015. Given these facts I am remanding this case to the agency with the instructions to re-determine the petitioner's institutional MA eligibility for May 28, 2015 through July 31, 2015.

### CONCLUSIONS OF LAW

The agency incorrectly denied the petitioner's application for institutional MA coverage for failing to provide requested verification.

**THEREFORE, it is**

**ORDERED**

That this case is remanded to the agency with instructions that the agency determine the petitioner's financial eligibility for institutional MA from May 28, 2015 through July 31, 2015. The agency shall comply with this order within 10 days of the date of decision. This appeal is dismissed in all other respects.

### **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 Milwaukee,  
Wisconsin, this 25th day of February, 2016

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\sCorinne Balter  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 25, 2016.

Waukesha County Health and Human Services  
Division of Health Care Access and Accountability

