



FH
[REDACTED]

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

In the Matter of

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

DECISION

MGE/171923

PRELIMINARY RECITALS

Pursuant to a petition filed February 08, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Manitowoc County Department of Human Services in regard to Medical Assistance, a hearing was held on March 15, 2016, at Manitowoc, Wisconsin.

The issue for determination is whether the agency should have opened MA benefits for the Petitioner for June, 2015 – September, 2015.

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: [REDACTED]

Manitowoc County Department of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.

2. On August 28, 2015, an application for Institutional MA was submitted for the Petitioner with a request to backdate coverage to June 1, 2015. Petitioner's only income was reported as \$488/month from Social Security.
3. On September 3, 2015, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of three bank accounts at [REDACTED] and verification regarding an automobile. The due date for the requested information was September 28, 2015.
4. On September 15, 2015, the agency received bank statements for one bank account at [REDACTED] and copies of two checks.
5. On September 17, 2015, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of two bank accounts at [REDACTED] and verification regarding an automobile. The due date for the requested information was September 28, 2015.
6. On September 29, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her application dated August 28, 2015 had been denied due to failure to provide requested verifications. The notice also informed the Petitioner of the right to appeal by filing a request for a hearing with the Division of Hearings and Appeals no later than November 16, 2015.
7. On December 11, 2015, another application was submitted on behalf of the Petitioner for Institutional MA. The application contained a request to backdate coverage to October 1, 2015.
8. On January 6, 2016, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of three bank accounts at [REDACTED] and verification of shelter costs. The due date for the information was January 15, 2016.
9. On January 18, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her application of September 1, 2015 was denied due to failure to provide requested verifications.
10. On January 27, 2016, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of two bank accounts at [REDACTED] and verification of shelter costs.
11. On February 8, 2016, the agency issued a notice to the Petitioner that her application for MA was approved for the period of October 1, 2015 – November 30, 2015.
12. On February 8, 2016, an appeal was filed on behalf of the Petitioner with the Division of Hearings and Appeals.

DISCUSSION

To qualify for MA, a person must meet both non-financial and financial requirements. Wis. Stat. §49.47(4). At application, the agency must request income and asset verification. Medicaid Eligibility Handbook, (MEH), §20.3.1 – 20.3.8, available at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. The agency must always give the client at least 10 days to supply requested verification. In the case of an application, the application should not be denied for lack of verification until 30 days has passed from the filing date. *Id.*, §20.7.1.1. The responsibility for supplying verification then rests on the recipient. However, if the applicant advises the agency in a timely manner that s/he cannot obtain the verification, the agency is to provide assistance to the extent possible to obtain the needed verification. MEH, § 20.1. The agency must use the best information available to process an application and issue benefits when the following two conditions exist:

1. The applicant/member does not have the power to produce verification, and
2. Information is not obtainable timely even with agency assistance.

Id.

In this case, the Petitioner's representatives seek to have the Petitioner's MA coverage back-dated to June 1, 2015. They assert that the Petitioner did not have the power to produce the requested bank statements because she was ill and could not get to the bank. The Petitioner's representatives further assert that the agency did not provide assistance in obtaining verification of bank accounts.

A hearing examiner has jurisdiction to rule on the merits of a case only if the appeal is timely filed. An appeal of a negative action concerning MA must be filed within 45 days of the date of the action. Wis. Stats., § 49.45(5). In this case, a hearing regarding the denial of the August, 2015 application was required to be filed by November 16, 2015. A request for hearing was not filed until February 8, 2016. Therefore, it was not timely filed and I do not have jurisdiction over the agency's action to deny the August, application and the back-date request to June, 2015.

I do have jurisdiction over the agency's decision to back-date the December, 2015 application to October 1, 2015. MA eligibility can be backdated up to three months prior to the month of application. MEH, § 2.8.2. The agency back-dated the Petitioner's MA enrollment/coverage to the requested October 1, 2015 date. I find this action was proper.

As dicta, I note that I do not find merit in the Petitioner's arguments that the Petitioner did not have the power to produce the requested bank statements. She was able to produce one bank statement from [REDACTED] in a timely manner so this explanation is not sufficient to explain why she could not obtain additional bank statements from the same bank for a period of several months. Also, I do not find any evidence that the agency was aware of the Petitioner being unable to produce verification in a timely manner and no request for the agency to continue to extend the deadline for verification or to provide assistance. Even if the appeal regarding the agency action on the August application was timely, I would find the agency action to be proper.

CONCLUSIONS OF LAW

The agency properly back-dated the Petitioner's MA enrollment to October 1, 2015.

THEREFORE, it is **ORDERED**

That the Petitioner's appeal 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, 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 5th day of May, 2016

\sDebra Bursinger
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
Internet: <http://dha.state.wi.us>

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

Manitowoc County Department of Human Services
Division of Health Care Access and Accountability
[REDACTED]@mgmhealthcare.com