



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/172470

PRELIMINARY RECITALS

Pursuant to a petition filed March 02, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on April 06, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner’s appeal of his November 2011 termination of benefits is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█

Respondent:

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

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On November 3, 2011 the agency sent the petitioner a notice stating that his application for Health Care benefits had been denied. The notice stated that the petitioner had until December 19, 2011 to appeal that denial.

3. On March 4, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a). Language concerning the right to appeal and the time limit is included on all department notices. On November 3, 2011 the Department sent the petitioner a notice stating that his application had been denied. When MA is denied, the applicant can appeal, file a new application, or both. MA Handbook, Appendix 2.1.4.2.2. A new application can be backdated only three months from the month of application, as mandated by Wis. Stat., §49.47(4)(d).

In this case the petitioner waited four and a half years to file his appeal. This is well beyond the 45 day time limit, and I am without jurisdiction to decide this case on the merits. The petitioner stated that when he applied for benefits it was a very dark time for him. His daughter had been brutally murdered, and he was an alcoholic. He is no longer drinking. He is doing better, and trying to repair his life. He has since applied for MA benefits. That application is pending for verification, which he is working on getting.

CONCLUSIONS OF LAW

The petitioner's appeal of his November 2011 termination of benefits is untimely.

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, 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 11th day of April, 2016

\sCorinne Balter
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 April 11, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability