



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MGE/173600

PRELIMINARY RECITALS

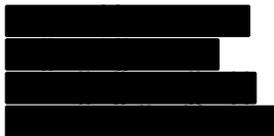
Pursuant to a petition filed April 11, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services in regard to Medical Assistance (MA), a hearing was held on May 10, 2016, at Waukesha, Wisconsin.

The issue for determination is whether the Petitioner’s appeal is timely and, if so, whether the agency properly determined the Petitioner was not eligible for MA benefits for December, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

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

By:

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

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a resident of Waukesha County.
2. Petitioner’s renewal for healthcare benefits was due to be completed by November 30, 2015.

3. On January 7, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her renewal application for healthcare benefits was denied effective December 1, 2015 due to failure to provide requested verifications. The notice further informed the Petitioner of her right to request a hearing regarding the agency determination by filing an appeal with the Division of Hearings and Appeals by February 22, 2016.
4. On April 11, 2016, the Petitioner filed a new application for healthcare benefits with a backdate request to January 1, 2016.
5. On April 11, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning MA must be filed within 45 days of the date of the action. Wisconsin Stat. § 49.45(5); Income Maintenance Manual § 3.3.1. A negative action can be the denial of an application or the reduction or termination of an ongoing case. The petitioner's appeal needed to be filed by February 22, 2016. It was not filed until April 11, 2016. The Petitioner's appeal was filed 49 days after the deadline. Thus, her appeal was untimely, and no jurisdiction exists for considering the merits of the MA case.

CONCLUSIONS OF LAW

The Petitioner's appeal was untimely.

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.

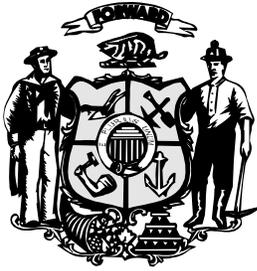
APPEAL TO COURT

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 27th day of June, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on June 27, 2016.

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