



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MGE/142771

PRELIMINARY RECITALS

Pursuant to a petition filed July 30, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Langlade County Department of Social Services in regard to Medical Assistance, a hearing was held on August 30, 2012, at Antigo, Wisconsin.

The issue for determination is whether the agency must refund the petitioner's December 2011 six -month deductible payment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Patsy Rolo, E.S. Supr.
Langlade County Department of Social Services
1225 Langlade Road
Antigo, WI 54409-2795

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Langlade County.
2. The petitioner has had an ongoing MA case for some time. Her case was reviewed in December 2011, in part to establish her MA deductible for the next six-month period. On December 5,

- 2011, the Department issued written notice to the petitioner advising of her deductible for the January 1 through June 30, 2012, period. The agency calculated a deductible of \$1,309.19.
3. On December 13, 2011, the petitioner paid her January – June deductible by check to the county agency. The check was cashed. However, the local agency worker then failed to make the correct computer entry to open the petitioner’s MA certification on January 1, 2012.
 4. In early July, 2012, the petitioner learned that a claim to MA for \$35 in services from March 2012 had been rejected for lack of coverage. She complained about the missing coverage to her multi-county agency Consortium. On July 9, 2012, the Central Consortium retroactively certified the petitioner for MA, and issued a notice on that date (July 9) declaring that the petitioner was now retroactively certified for January 1 through *July 31*, 2012.
 5. There is no evidence in the hearing record that the Consortium personnel gave the petitioner the option, during the July 1 through July 9, 2012 period, to forgo MA coverage for the January – June 2012 deductible period.
 6. On July 11, 2012, the Central Consortium issued written notice to the petitioner advising that she had paid her next deductible on July 10, and that she was certified for her next deductible period of August 1, 2012 through January 31, 2013.

DISCUSSION

Medical Assistance (MA) is a state-federal program designed to pay for medical coverage for low income persons. To qualify for MA, a person must be both nonfinancially and financially eligible. There is no dispute that the petitioner is nonfinancially eligible (*e.g.*, disabled). To be financially eligible, a person must have assets that are under the program’s asset limit, and income that is under the appropriate income limit. Where, as it appeared here, the recipient’s income is over the income limit, an MA deductible must be satisfied before MA eligibility begins. Wis. Stat. §49.47(4)(c); Wis. Admin. Code § DHS 103.08(2); *MA Eligibility Handbook (MEH)*, Appendix 24.1, at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. MA deductibles are calculated for six-month periods. To calculate the deductible, the “medically needy” income amount is subtracted from the household’s income (less a \$20 unearned income disregard), and the remainder is multiplied by six.

There is no dispute that the petitioner had to satisfy a \$1,309.19 deductible to be MA-certified for January – June, 2012. It is also undisputed that she paid the deductible in December, that the check was cashed, and that a worker failed to make the computer entry to open certification until the deductible period was over. Certification did not occur until July 2012, when the petitioner no longer needed it. The petitioner now seeks reversal of the late certification and, most importantly, a refund of the \$1,309.19 paid in December 2012.

The Consortium has declined to refund the petitioner’s \$1,309.19, and relies upon the following policy language:

24.3 DEDUCTIBLE PERIOD

The Medicaid deductible period is a period of six consecutive months. It is the length of time the group has for meeting the Medicaid deductible. It begins in the month which the applicant  chooses, and it ends six months later.

...

An individual can establish a new deductible period at any time if they file an application for Medicaid. This includes situations where someone has already established a deductible period, hasn’t yet met the deductible, and wishes to establish a new deductible period. This will usually occur as a result of a recent decrease in their monthly income.

...

24.7.3 Prepaying a Deductible

Anyone can prepay a deductible for himself/herself or for someone else. It can be paid in installments or all at once. A prepaid deductible may be refunded if the member requests a refund of the prepayment **prior** to the begin date of the corresponding deductible period.

...

24.7.3.1 Payment of Entire Deductible Amount

If the entire deductible amount is paid at any point during the deductible period, eligibility begins on the first date of the deductible period.

Enter the first date of the deductible period on AGTM as the date the payment was received.

MEH, 24.3 – 24.7.3.1. Based on the above, the petitioner is stuck with the certification that retroactively began on January 1, 2012, because she did not request a refund of her prepayment prior to January 1, 2012. I have reviewed the state code provision related to MA spend-down/deductibles, and did not find any specific language that is contrary to the written policy above. See, Wis. Admin. Code § DHS 103.08(1),(2). The petitioner should ask the provider of her unpaid March 2012 services to submit a claim to ForwardHealth so that the March services will be paid by MA.

CONCLUSIONS OF LAW

1. The Department correctly declined to refund the petitioner's December 2012 deductible prepayment because the petitioner did not request a refund of her prepayment prior to January 1, 2012 (beginning of her deductible period).

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 23rd day of October, 2012

Nancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
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 October 23, 2012.

Langlade County Department of Social Services
Division of Health Care Access and Accountability