



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MGE/145449

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 21, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Richland County Health and Human Services in regard to Medical Assistance, a hearing was held on January 04, 2013, at Richland Center, Wisconsin. The record was held open for a period of 10 days to allow for the submission of further documentation by petitioner and respondent. Said documentation was timely received.

The issue for determination is whether respondent properly denied petitioner's Medical Assistance (MA) application due to a failure to timely provide verification.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Petitioner's Representative:

[REDACTED]

Respondent:

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

By: Briana Turk

Richland County Health and Human Services  
221 W Seminary St.  
PO Box 673  
Richland Center, WI 53581

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

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

2. An application for Medicaid Purchase Plan (MAPP) enrollment was filed in May of 2012, requesting backdated coverage to March of 2012. Exhibit 3, p.8. The county mailed notification to petitioner indicating that he needed to verify his assets, specifically an automobile and a camper, no later than July 5, 2012. On or about November 9, 2012, petitioner submitted asset verification information. Exhibit 2.
3. On or about November 8, 2012, petitioner's disability was approved by the Social Security Administration (SSA), with a determination effectuating the disability as of February, 2012. Exhibit 3.
4. By a notice dated July 6, 2012, the county denied the application. The notice stated that the reason for denial was that verification of petitioner's assets was not received. Exhibit B.

### DISCUSSION

Under MA rules assets must be verified. Wis. Adm. Code, §DHS 102.03(3)(h); MA Handbook, Appendix 20.3.5. To verify means to establish the accuracy of verbal or written statements about an applicant's circumstances. Handbook, App. 20.1.1. 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." Wis. Adm. Code, §DHS 102.03(1); see also the MA Handbook, App. 2.7.1.

The department takes a strict position concerning the completion of the application process. Once the time period for providing the verification has passed, the application is over. "If less than 30 days has passed since the client's eligibility was denied, allow the client to re-sign and date the application or page one of the CAF [Combined Application Form] *to set a filing date*. If more than 30 days has passed since a client's eligibility was denied and the client is not open for any other program, the client must file a new application to reopen his/her MA." Handbook, App. 2.9.2, italics added. The department does not allow for discretionary extensions in cases where information is not provided due to simple errors.

Petitioner asserts that the sole reason for not supplying the requested asset information was that he never received the Notice of Action and Proof Needed that was sent by respondent on or about June 26, 2012. He also asserts that he never received the Notice of decision denying his application, which was sent on July 6, 2012. He testified that he has complained to the post office on several occasions regarding issues with his mail, and is aware of other mail having been sent to him that was never received.

Petitioner and his representative testified that they had assumed that the application was pending while his SSA application was being considered. Respondent concedes that it was in keeping with past practice to keep an application pending while awaiting a disability decision. See, Exhibit 3, p.7. Respondent noted, however, that an application would need to be complete before being allowed to pend.

According to petitioner's respondent, the first time that she or her client became aware of the outstanding asset verification request was on or about November 9, 2012. See, Exhibit 3, p.4. I find it notable that, upon learning of the months' old request for verification, petitioner was able to immediately supply the requested information. See, Exhibit 2. The respondent testified that the verification information ultimately received constituted sufficient verification of assets.

I find the testimony of petitioner to be credible and supported by corroborating evidence. I am persuaded that the petitioner did not receive the request for verification or the notice of decision. I base that conclusion on petitioner's credible testimony, the fact that he was able to immediately supply the information to the respondent in November of 2012, and testimony regarding the respondent's past practice of pending an application while awaiting a determination from SSA (i.e., petitioner would not have found it concerning that he was waiting so long to hear from respondent regarding his application).

As noted above, the respondent does not allow for discretionary extensions in cases where information is not provided due to simple errors. However, in this instance I find that petitioner was not responsible for the simple error. I will remand this matter to the respondent to review and re- determine petitioner's eligibility for benefits backdated to March, 2012, assuming timely receipt of his asset verification.

### **CONCLUSIONS OF LAW**

1. Petitioner's late submission of asset verification information to the respondent was due to errors beyond petitioner's control.
2. Petitioner's submission of asset verification information to the respondent was not untimely, since the Notice of Action and Proof Needed was never received by petitioner.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it re-determine the petitioner's eligibility for MAPP benefits backdated to March, 2012, in accordance with the Conclusions of Law, above.

### **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 served and 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, 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 15th day of February, 2013

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\sPeter McCombs  
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 February 15, 2013.

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