



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/146631

PRELIMINARY RECITALS

Pursuant to a petition filed January 16, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Calumet County Department of Human Services in regard to Medical Assistance, a hearing was held on February 21, 2013, at Chilton, Wisconsin.

The issue for determination is whether there is any issue for determination by the Division of Hearings and Appeals.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jodi Kautzer

Calumet County Department of Human Services
206 Court Street
Chilton, WI 53014-1198

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Calumet County.
2. On 9/7/12, petitioner filed for Nursing Home-MA. This application was denied based on excess assets. Petitioner did not appeal the denial.

3. Petitioner re-applied on 9/26/12. This application was denied based on excess assets. Petitioner did not appeal this denial.
4. Petitioner applied for MA a third time on November 6, 2012. The filed application did not request a backdate. Petitioner was approved for MA and was enrolled effective November 1, 2012.
5. On February 19, 2013 petitioner filed a request for fair hearing related to medical assistance.

DISCUSSION

Petitioner argued that MA should be backdated to the date of her initial injury on July 27, 2012 despite the previous determinations that petitioner was over the asset limit. But, petitioner's application filed in November did not request backdating. Nor did petitioner file appeals from the initial two denials of eligibility based on assets. Petitioner filed an application. Petitioner did not request backdating. There was no adverse action by the Department because the Department approved the application as filed.

The Department agreed that it would consider whether the application can be backdated to include October 2012. Any determination of this issue relating to backdating should include a written determination sent to petitioner and a notice of appeal rights.

CONCLUSIONS OF LAW

There is no issue for determination by the Division of Hearings and Appeals.

THEREFORE, it is

ORDERED

That this appeal 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 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 28th day of March, 2013

\sJohn P. Tedesco
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 March 28, 2013.

Calumet County Department of Human Services
Division of Health Care Access and Accountability