



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/147405

PRELIMINARY RECITALS

Pursuant to a petition filed February 13, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance (MA), a hearing was held on March 11, 2013, at La Crosse, Wisconsin.

The issue for determination is whether the respondent erred in terminating petitioner's MA benefits effective January 1, 2013, due to failure to complete his review.

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
Madison, Wisconsin 53703

By: Tom Miller

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. Prior to January, 2013, the petitioner had received MA benefits since February, 2011.

3. On November 12, 2012, the respondent notified the petitioner that his case was due for a periodic review, to be completed no later than December 31, 2012.
4. On December 19, 2012, the respondent issued written notice to the petitioner advising that his MA would be discontinued effective January 1, 2013, for failure to complete a review. However, the petitioner did participate in a telephone review on January 4, 2013. He completed all aspects of the review, with the exception of signing the signature page. He declined an opportunity to sign that page telephonically.
5. On January 17, 2013, the respondent issued written notice to the petitioner advising that his MA case would remain closed from January 1, 2013¹, onward, because the petitioner “did not sign the application for this program.” The signature page includes declarations that the applicant/recipient is swearing that his answers on the review form are true, and that he will report significant increases in income, among other things.

DISCUSSION

Qualified Medicare Beneficiary (QMB), Special Low Income Medicare Beneficiary (SLMB), and SLMB Plus are programs which provide assistance with Medicare Part B premiums for persons whose incomes are over the regular Medical Assistance limits. All three programs pay the entire Part B premium. See the MA Handbook, § 32.1.1 for a full description of the programs. Applications for these programs are processed concurrently with Medical Assistance applications using the same processing rules.

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, § 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.” MA Handbook, § 2.9.2, italics added. The department does not allow for discretionary extensions in cases where information is not provided due to simple errors.

In addition, the application must be signed by either the applicant or the applicant’s representative. MA Handbook, § 2.5.1.

The petitioner has not established any error on the part of the respondent. I have reviewed the filed exhibits, and conclusively find that the respondent properly advised petitioner of the review (and deadline for completion of the review), properly conducted a telephone recertification with petitioner, properly mailed the request for signature to the appropriate address, and subsequently made the paperwork available for petitioner to sign at the respondent’s office. The petitioner testified that he received the review paperwork late and explained that he thought that his only option was to file an appeal (and that he could not return the signature page, as it was untimely by the time that he received it). An erroneous assumption on the part of the petitioner does not constitute an error on the part of the respondent. The petitioner also commented on the difficulties that he faced in contacting the respondent, and noted that he did not understand that the signature paperwork would be left for him to sign at the office.

¹ The December 19, 2012 notice informed petitioner that his Medicaid and his Medicare Premium Assistance benefits would cease as of January 1, 2013. The January 17, 2013 notice indicated that the Medicaid benefits would cease as of January 1, 2013, but the Medicare Premium Assistance benefits would cease as of February 1, 2013. The discrepancy in dates was not explained at hearing.

This is a close case, and I empathize with petitioner's efforts to comply with FS laws and regulations despite his homelessness. Ultimately, though, I am unable to find an error on the part of the respondent here. As such, I must dismiss the petitioner's appeal.

As a side note to the petitioner, the power of the Division's administrative law judges (ALJs) is limited to a review of the administration of public assistance programs, like FS, under federal and state laws. ALJs do not possess the all-encompassing powers of a court of equity, like the judges presiding over a Circuit Court. I have no power to overturn an agency's decision solely on the basis of what seems fair. If he hasn't already the petitioner may wish to consider filing a new MA application in order to receive MA going forward.

CONCLUSIONS OF LAW

The respondent correctly discontinued the petitioner's MA effective January 1, 2013, due to the petitioner's failure to sign an MA recertification form required to complete his review.

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 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 9th day of April, 2013

\sPeter McCombs
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 April 9, 2013.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability