



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/147607

PRELIMINARY RECITALS

Pursuant to a petition filed February 22, 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, a telephone hearing was held on March 27, 2013.

The issue for determination is whether respondent correctly denied petitioner's application for Medical Assistance (MA) while he was incarcerated.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[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
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. For the period of at least December 12, 2012 through March 27, 2013 petitioner was incarcerated. See, Exhibit 2.
3. Petitioner applied for BadgerCare+/Medicaid benefits on January 16, 2013. Via written notice dated January 17, 2013, respondent denied petitioner's application.

DISCUSSION

The respondent based its denial of petitioner's application on the Medicaid Eligibility Handbook specification that inmates are ineligible for Medicaid services on any day in which they are residing in a public institution. *Medicaid Eligibility Handbook, 6.2.1.1; see also, BadgerCare Plus Eligibility Handbook § 3.6.* Additionally, Section 49.47(6)(c) of the Wisconsin Statutes states: "Benefits shall not include any payment with respect to: ... 3. Care or services for an individual who is an inmate of a public institution, except as a patient in a medical institution or a resident in an intermediate care facility."

As an inmate of the La Crosse County Jail, petitioner is not eligible for MA. In a Fair Hearing such as this, the petitioner has the burden of proof to establish his eligibility for MA and that the action(s) taken by the county was, or were, improper given the facts of the case. Based upon the record before me, he has not established any error on the part of the respondent.

CONCLUSIONS OF LAW

Petitioner is not eligible for MA benefits while incarcerated.

THEREFORE, it is

ORDERED

That the matter is hereby 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 19th day of April, 2013

\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 April 19, 2013.

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