



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED] [REDACTED]
523 Chapple Ave #3
Ashland, WI 54806

DECISION

MGE/147859

PRELIMINARY RECITALS

Pursuant to a petition filed March 07, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Ashland County Department of Human Services in regard to Medical Assistance, a hearing was held on April 18, 2013, at Ashland, Wisconsin.

The issue for determination is whether the petitioner can request a medical assistance deductible period running from February 1, 2012, through August 1, 2012.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] [REDACTED]
523 Chapple Ave #3
Ashland, WI 54806

Petitioner's Representative:

Amy M. Janecek
400 Chapple Ave Suite 100
Ashland, WI 54806

Respondent:

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

By: Beulah Garcia

Ashland County Department of Human Services
630 Sanborn Avenue
Ashland, WI 54806

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Ashland County.
2. On May 10, 2012, the petitioner, with the assistance of Cardon Outreach, a nonprofit agency that assists low income elderly persons, sent a medical assistance application and supporting

documentation to the Northern Income Maintenance Consortium via facsimile transmission. She requested benefits retroactive to February 1, 2012.

3. Cardon Outreach's facsimile indicates that it was sent to and received by "1- [REDACTED]", the fax number for the Northern Consortium, on "5/10/12" at "9:58 p.m."
4. The Northern Consortium contends it never received the application. It did not send the petitioner a notice indicating its action on any application from the petitioner until after she resubmitted it in September, 2012.

DISCUSSION

The petitioner and her advocate, Cardon Outreach, contend that they sent a medical assistance application to the Northern Consortium via facsimile transmission on May 10, 2012. The consortium contends that it never received an application. However, Cardon's documentation on the fax it sent indicates that it was sent to and received by "1- [REDACTED]", the fax number for the Northern Consortium, on "5/10/12" at "9:58 p.m." Over the next several months, the petitioner and her advocates tried to get the original application accepted. Despite receiving a copy of the fax transmittal form, the consortium continued to deny that it ever received it. Finally, the petitioner reapplied in September 2012 and was found eligible with a deductible period beginning in June 2012.

The evidence before me is clear that the petitioner applied for medical assistance on May 10, 2012. Agencies must inform applicants "in writing" of their right to appeal an unfavorable decision. Wis. Admin. Code, § DHA 3.04. Medical assistance recipients must appeal negative decisions within 45 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Admin. Code § HA 3.05(3). In this case, the agency never denied the May 10, 2012, application because it never acknowledged receiving it. As a result, the petitioner can still file an appeal concerning any eligibility she may have under that application. Because the agency has not acted on her application, I will remand this matter to them to determine what benefits she may be due under it. Eligibility for medical assistance begins "on the date on which all eligibility requirements were met, but no earlier than the first day of the month 3 months prior to the month of application." Wis. Admin. Code § DHS 103.08(1). Therefore, I will order the agency to consider her eligibility retroactive to February 1, 2012, and ensure that she receives any benefits she is due. My understanding is that she requests that her deductible period begin on that date. If the facts justify that result, the agency should ensure that this happens.

CONCLUSIONS OF LAW

1. The medical assistance agency has not acted on a valid application that the petitioner submitted on May 10, 2012.
2. The Division of Hearings and Appeals has jurisdiction to consider the petitioner's appeal of the agency's failure to act on the May 10, 2012, application.

THEREFORE, it is

ORDERED

That this matter is remanded to the Ashland County Department of Human Services with instructions that within 10 days of the date of this decision it determine the petitioner's eligibility for medical assistance based upon her May 10, 2012, application. Benefits or a deductible period shall begin no earlier than February 1, 2012. If the petitioner disagrees with the agency's decision, she may file a new appeal.

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 1st day of May, 2013

\sMichael D. O'Brien
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 May 1, 2013.

Ashland County Department of Human Services
Division of Health Care Access and Accountability
ajanecek@hsd.co.ashland.wi.us