



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

HMO/149634

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 25, 2013, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on September 03, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether this appeal has been abandoned.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED] es  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Lucy Miller, Nurse Consultant  
Division of Health Care Access And Accountability  
Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner filed this appeal to contest the denial of a prior authorization request for personal care worker hours submitted by her HMO, United Healthcare Community Plan.
3. A hearing was commenced on June 13, 2013 but adjourned as Petitioner had not yet received the June 10, 2013 letter from the Department of Health Services that contained attachments - all of

which were used to document the reasons for the denial of this request. The Petitioner was also awaiting some additional medical records from her doctor or doctors.

- 4. This case was scheduled for hearing on September 3, 2013. A notice dated August 8, 2013 was sent to Petitioner at the above address. It has not been returned to the Division of Hearings and Appeals as being undeliverable. Petitioner has not contacted Division of Hearings and Appeals to provide a number other than that at which she was called for the June 13 hearing. Petitioner was called via telephone at the time scheduled for the September 3, 2013 hearing but her phone had been disconnected.

**DISCUSSION**

The Division of Hearings and Appeals is permitted to dismiss a case as abandoned:

**HA 3.05 Request for a hearing.**

...

**(4)** The division shall deny or dismiss a hearing request under any of the following circumstances:

...

(d) The Petitioner has abandoned the hearing request. The division shall determine that abandonment has occurred when the Petitioner, without good cause, fails to appear personally or by representative at the time and place set for the hearing. Abandonment may also be deemed to have occurred when the Petitioner or the authorized representative fails to respond within a reasonable time to correspondence from the division regarding the hearing. (e) The hearing request is not received within the time period specified in sub. (3).

...

*Wisconsin Administrative Code, §HA §3.05(4).*

Given the circumstances outlined in the Findings above, I am dismissing this case as abandoned. If Petitioner should receive this decision and did not intend to abandon the appeal she should note rehearing instructions below.

**CONCLUSIONS OF LAW**

That Petitioner has abandoned this appeal by a failing to appear for a hearing without any offer of good cause as to why.

**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 Milwaukee,  
Wisconsin, this 11th day of September, 2013

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\sDavid D. Fleming  
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 September 11, 2013.

Division of Health Care Access And Accountability