



FH
[REDACTED]

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

In the Matter of

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

DECISION

MGE/149889

PRELIMINARY RECITALS

Pursuant to a petition filed June 5, 2013, under Wis. Stat., §49.45(5), to review a decision by the Marinette County Dept. of Human Services in regard to Medical Assistance (MA), a hearing was held on July 3, 2013, by telephone.

The issue for determination is whether there is an issue that can be resolved by this office.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Lisa Witak
Marinette County Dept. of Human Services
1605 University Drive
Marinette, WI 54143

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marinette County.
2. Petitioner was a SeniorCare recipient. She applied for nursing home MA and it was opened in February, 2013.
3. In late April, 2013 the Division of Health Care Access and Accountability (DHCAA) notified petitioner that BadgerCare Plus (BC+) MA no longer would pay for prescriptions because she

was enrolled in Medicare Part D. This was news to petitioner because she had never received BC+ MA and because she was not enrolled in Medicare Part D.

4. Petitioner applied for Medicare Part D in May and was granted eligibility beginning June 1, 2013. In the meantime petitioner's pharmacy submitted claims totaling \$2,765 that were denied. Petitioner then filed this appeal.
5. Petitioner remained eligible for SeniorCare in May, 2013.

DISCUSSION

SeniorCare is a prescription drug assistance program for eligible Wisconsin residents aged 65 years or older. The law regarding SC is delineated in the Wisconsin Administrative Code, Chapter HFS 109.

After reviewing the case history, it does not appear that the Division of Hearings and Appeals has any authority over this case. The record shows that petitioner remained eligible for SeniorCare in May, 2013. I believe the late-April notice was a red herring because petitioner neither was eligible for BC+ nor was enrolled in Medicare Part D at that point. However, it may have confused the pharmacy into sending its claims to the wrong location.

I contacted the Department's customer relations office. It was suggested that petitioner request that the pharmacy submit the May, 2013 claims to SeniorCare because it is possible that claims were submitted to the wrong agency or were submitted during a break in coverage that later was corrected. If that fails there are other avenues, but the one thing that is clear is that petitioner should not be responsible for the bills.

The customer relations pharmacy consultant is [REDACTED] [REDACTED]. His telephone number is ([REDACTED] [REDACTED]). Petitioner can contact him if there are any questions or problems with the pharmacy.

CONCLUSIONS OF LAW

The Division of Hearings and Appeals does not have authority to order relief in this appeal because petitioner was eligible for SeniorCare in May, 2013, and this office is limited to reviews of eligibility.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same 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 16th day of July, 2013

\sBrian C. Schneider
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 July 16, 2013.

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