



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/149891

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 08, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on August 15, 2013. At petitioner’s request a Hearing scheduled for July 17, 2013 was rescheduled.

The issue for determination is whether it was correct to deny petitioner’s May 2013 application for MA.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Represented by;

[REDACTED], petitioner’s daughter  
c/o [REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703  
By: Eric Deml, ESS  
Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]; 73 years old) is a resident of Jefferson County.

2. On or about May 28, 2013 petitioner applied for MA.
3. Petitioner is not a U.S. citizen; he entered the United States on March 16, 2013 and obtained a *Permanent Resident* card.
4. By an *About Your Benefits* notice dated June 3, 2013 the County denied petitioner's MA application because he was not a U.S. Citizen or an eligible alien.

### **DISCUSSION**

In order to be eligible for MA a person must be either a U.S. citizen or, if they are not a U.S. citizen, meet certain other requirements. 42 C.F.R. § 435.406 (2011); *Medicaid Eligibility Handbook* ["MEH"], 7.3.1; See also, Wis. Admin. Code § DHS 103.03(2) (December 2008).

With certain exceptions not relevant here (refugees, asylees, immigrants whose deportation has been withheld, Cuban/Haitian, etc.) a person who is not a U.S. citizen is not eligible for MA unless they have resided in the United States for at least 5 years since they became a qualified alien. MEH 7.3.1.1.e. & 7.3.4.01. A *qualified alien* includes an alien who is lawfully admitted to the United States for permanent residence. MEH 7.3.1.7; See also, 8 U.S.C. § 1641(b)(1) (2008); 42 C.F.R. § 435.406(a)(2) (2011). Petitioner entered the United States on March 16, 2013 and obtained a *Permanent Resident* card. Therefore, he will not be eligible for MA until at least 5 years after March 16, 2013. It follows that it was correct to deny him eligibility for MA at this time.

### **CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct to deny petitioner's May 2013 application for MA.

**NOW, 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 21st day of August, 2013

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\sSean P. Maloney  
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 August 21, 2013.

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