



FH  
[REDACTED]

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

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In the Matter of

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

DECISION

MGE/151080

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 30, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on September 23, 2013, at Racine, Wisconsin.

The record was held open to give Racine County (the agency) an opportunity to submit its evidentiary packet and to give Petitioner's wife an opportunity to submit documentation showing Petitioner's admission into a hospital. The agency's packet has been marked as Exhibit 2 and entered into the record. Petitioner's wife submitted a packet that included a release of information and a bill from a nursing home that has been marked as Exhibit 3 and entered into the record.

The issue for determination is whether the agency denied Petitioner's application for Institution Long Term Medicaid benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

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

By: Gail Heaslet, Economic Support Specialist  
Racine County Department of Human Services  
1717 Taylor Ave  
Racine, WI 53403-2497

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. Petitioner was hospitalized on May 19, 2013. (Testimony of Petitioner's wife)
3. Petitioner was transferred from the hospital to Kindred Nursing and Rehabilitation on May 29, 2013. He was then discharged from the nursing home on June 21, 2013. (Exhibit 3, pg. 4)
4. On June 14, 2013, Petitioner applied for Institution Long Term Care Medicaid benefits. (Exhibit 2, pgs. 6-15)
5. On July 15, 2013, the agency sent Petitioner a notice indicating that his application for benefits was denied because he had not been in a nursing home for 30 days. (Exhibit 2, pg. 2)
6. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on July 30, 2013.

### DISCUSSION

Institution Long Term Care Medicaid is a subprogram of the Wisconsin Medicaid Program intended to provide health care coverage to institutionalized persons. *Medicaid Eligibility Handbook MEH §27.*

“For Medicaid purposes, ‘institution’ means medical institution. A medical institution can be, but is not limited to skilled nursing facilities a.k.a. nursing homes, intermediate care facilities, institutions for mental disease and hospitals.” *MEH §27.1.1*

An “institutionalized person” means someone who 1) Participates in a community waivers program, 2) has resided in a medical institution for 30 or more consecutive days, or is likely to reside in a medical institution for 30 or more consecutive days, as attested to by the medical institution. *MEH §27.4.1* “The 30-day period includes situations in which the person resides in more than one medical institution during 30 or more consecutive days.” *Id.*

In the case at hand, the agency denied Petitioner's request for Institution Long Term Care Medicaid, asserting that he was not in an institution for 30 more days. However, Petitioner's wife testified credibly that Petitioner was in a medical institution, first a hospital then a nursing home, from May 19, 2013 through June 21, 2013. Consequently, Petitioner did meet that 30 day requirement.

I note, however, that Petitioner submitted a request for medical records, in lieu of documentation from the hospital concerning Petitioner's dates of hospitalization. Consequently, Petitioner will need to provide to the agency verification, i.e. discharge paper work from the hospital showing dates of admission to the hospital and date of discharge to the nursing home.

The agency will then have to make a new eligibility determination. If Petitioner's spouse disagrees with the determination, she will need to file a new request for fair hearing.

### CONCLUSIONS OF LAW

That the agency incorrectly denied Petitioner's application for Institution Long Term Care Medicaid.

**THEREFORE, it is**

**ORDERED**

That within ten days of this decision, the agency request verification of Petitioner's dates of hospitalization. Immediately upon receipt of said verification, the agency shall re-determine Petitioner's eligibility for Institution Long Term Care benefits for the time he was institutionalized, and the agency shall issue a new notice of decision.

**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 16th day of October, 2013.

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\sMayumi M. Ishii  
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 October 16, 2013.

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