



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/152281

PRELIMINARY RECITALS

Pursuant to a petition filed September 20, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to the discontinuance of the petitioner's individual Elderly, Blind & Disabled - Medical Assistance (EBD-MA), a telephone hearing was held on October 30, 2013, at Milwaukee, Wisconsin.

The issue for determination is moot as a matter of fact and law; the parties agreed upon a stipulated settlement.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Katherine Mays
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She was receiving Elderly, Blind & Disabled MA (EBD-MA) in September, 2013; her husband, Terry, was not, but was part of her household.

2. On or about September 17, 2013, the county agency issued a Notice to the petitioner informing her that her EBD- MA would discontinue, effective October 1, 2013, due to an increase in unearned income, resulting in income in excess of program limits.
3. On October 1, 2013, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the discontinuance of her EBD-MA; benefits were ordered to continue pending the hearing decision, but it is not clear that they did.
4. The petitioner's new unearned income is a Social Security cash benefit that does not begin until November, 2013; she had no such income increase in October, 2013.
5. A hearing was held on October 30, 2013, and the parties agreed upon a stipulated settlement providing that the Department would restore the petitioner's EBD-MA for October, 2013, and take action to re-certify her for that month; and review and re-determine the petitioner's November, 2013, EBD-MA eligibility, with written notice.

DISCUSSION

That the petition for review is moot because the agency restored the petitioner's October, 2013, EBD-MA certification, and will review and re-determine her eligibility for November, 2013, and thereafter, with written notice. No instant issue remains for determination. If the petitioner again disagrees with the new re-determination decision, she must file a *new appeal* at that time. She would also be well-advised to investigate and/or apply at the Federal Marketplace, www.HealthCare.gov, online, for coverage under the new federal Affordable Care Act.

CONCLUSIONS OF LAW

That the parties agreed upon a stipulated settlement as described in Finding of Fact #5, above, and no issue remains for determination by the administrative law judge.

THEREFORE, it is

ORDERED

That the matter is remanded to the county agency with instructions to: rescind the action discontinuing the petitioner's individual EBD-MA in October, 2013; restore the petitioner's EBD-MA certification for October, 2013, if this action has not already been taken; review and re-determine the petitioner's eligibility for EBD-MA, effective November, 2013, with written notice; and issue any EBD-MA to which she is determined eligible for beginning in November, 2013, *if any*. These actions shall be completed within 10 days of the date of this 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 Madison,
Wisconsin, this 1st day of November, 2013

\sKenneth D. Duren, Assistant Administrator
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 November 1, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability