



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/152366

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 24, 2013, under Wis. Stat. § 49.45(5)(a), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a telephone hearing was held on November 05, 2013.

The issue for determination is whether petitioner's appeal was timely.

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, Room 651  
Madison, Wisconsin 53703

By: Beulah Garcia

Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County.
2. The county agency notified the petitioner on August 1, 2013, that her BadgerCare Plus benefits ended as of July 1, 2013, because she did not meet non-financial eligibility requirements, i.e., there was no reunification plan in place with Wood County concerning petitioner's son. Exhibit 3.

3. The August 1, 2013 notice indicated that petitioner could appeal the respondent's determination, and that the appeal deadline was September 16, 2013. Exhibit 3.
4. The petitioner filed her appeal on September 24, 2013.

### **DISCUSSION**

Medical assistance recipients must appeal negative decisions within 45 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Admin. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it.

The county agency notified the petitioner prior to, and as last as, August 1, 2013, that her BadgerCare Plus benefits ended as of July 1, 2013, because she failed to establish that she had a reunification plan in place regarding her son. She did not appeal until September 24, 2013, or 8 days after the appeal period expired. She contends that her mail had been delivered to her sister's home, and testified that she (her sister) had been throwing away her (petitioner's) mail. The petitioner provided nothing to corroborate this testimony, and I found her testimony regarding the untimeliness issue to be convenient and unconvincing. Based upon the record before me, I find that her appeal is late, and therefore must uphold the agency's decision.

### **CONCLUSIONS OF LAW**

The Division of Hearings and Appeals has no jurisdiction to consider the petitioner's appeal because it is untimely.

**THEREFORE, it is**

**ORDERED**

The petitioner's 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, Room 651, 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 6th day of December, 2013

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\sPeter McCombs  
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 December 6, 2013.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability