



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/152829

PRELIMINARY RECITALS

Pursuant to a petition filed October 16, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Chippewa County Department of Human Services in regard to Medical Assistance, a hearing was held on November 19, 2013, at Chippewa Falls, Wisconsin.

The issue for determination is whether the agency correctly determined when the petitioner became eligible for medical assistance.

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: Kelly Goettl

Chippewa County Department of Human Services
711 N. Bridge Street
Chippewa Falls, WI 54729-1877

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Chippewa County.
2. The petitioner's June 1, 2013, application for medical assistance was denied on September 24, 2013. The petitioner appealed that denial on October 16, 2013.
3. An earlier application, filed on May 29, 2013, was denied on June 21, 2013.

4. On August 5, 2013, the Centralized Data Processing Unit granted the petitioner's advocate, [REDACTED], an extension to verify the petitioner's financial information.
5. The petitioner has submitted all verification the county requires to determine her eligibility retroactive to April 7, 2013.

DISCUSSION

The petitioner seeks medical assistance retroactive to April 7, 2013. The Department denied the application because it contends that the petitioner did not verify her financial information before the case closed. Determining exactly what happened is difficult because the person who gathered the verification did not testify. The Department was represented at the hearing by Kelly Goettl of Chippewa County. Ms. Goettl has appeared before me a number of times. She is thorough and honest but has no first-hand knowledge of the facts of this case. The petitioner's representative, [REDACTED], did testify. She has first-hand knowledge of the case and was credible. This decision will rely upon her testimony and the official records submitted by the county agency.

The petitioner first applied for medical assistance on May 29, 2013. That application was denied on June 21, 2013. *Exhibit 1*. Medical assistance applicants 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 petitioner appealed on October 16, 2013. Because this is not within 45 days of that denial, her appeal cannot cover that application.

The only other written denial submitted by the agency was dated September 24, 2013. The petitioner's appeal was filed within 45 days of that denial, so it can be considered. That denial indicates that the petitioner applied for medical assistance on June 1, 2013. *Exhibit 2*. Medical assistance rules state that "eligibility shall begin on the date on which all eligibility requirements were met, but no earlier than the first day of the month 3 months prior to the month of application." Wis. Admin. Code, § DHS 103.08(1). This means that if the petitioner met the program's eligibility requirements, she could be eligible retroactive to the April 7, 2013, date she requests.

Medicaid rules require recipients to verify relevant information, including assets. Wis. Admin. Code, § DHS 102.03(3). On July 17, 2013, the agency sent a notice to the petitioner's representative, [REDACTED], requesting that by July 29, 2013, she verify the petitioner's Associated Bank savings account balance as of April 2013.

According to Wis. Admin. Code, § DHS 102.03(1):

An application for MA shall be denied when the applicant or recipient is able to produce required verifications but refuses or fails to do so...If the applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but shall proceed immediately to verify the data elements

Agencies must allow at least 30 days from the date of application or 10 days from the date of the request, whichever is later, to verify the information. *Medicaid Eligibility Handbook*, § 20.7.1.1. *see also* Wis. Admin. Code § DHS 102.03(1). Medical assistance policy instructs when to approve or deny an application:

Begin or continue benefits when:

1. The member provides requested verification within the specified time limits and is otherwise eligible.

2. Requested verification is mandatory, but the member does not have the power to produce the verification and s/he is otherwise eligible

Medicaid Eligibility Handbook, § 20.8.1.

Deny or reduce benefits when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. You need the requested verification to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility

Medicaid Eligibility Handbook, § 20.8.3.

Workers are instructed not to “over-verify” information or “exclusively require a particular type of verification when various types are possible. *Medicaid Eligibility Handbook, § 20.2.*

Ms. [REDACTED] was unable to do so by July 29, 2013, because the petitioner’s condition prevented her from assisting in gathering the information. On August 5, 2013, M. [REDACTED] requested more time to submit the information. The CDPU’s notes confirm this and indicate that the extension was granted, although those notes also indicate that the case had closed. *Exhibit 3.* Ms. [REDACTED] submitted the information within the extended time, but the agency contends that the application had closed on July 29, 2013, and that the petitioner must reapply to receive benefits. The problem is that if the case had closed, no one informed the petitioner or Ms. [REDACTED] of this in writing until almost two months later. Medical assistance denials must be in writing. Wis. Admin. Code, § HA 3.04, incorporating § HA 3.03(1)(a). Because closing the case amounts to a denial of benefits, and benefits cannot be denied without written notice, the case was still open and, because the petitioner and her representative were unable to gather the information on time, the agency could extend the date on which the verification was due. I am aware that it would have been a better practice for Ms. [REDACTED] to request this extension before July 29, 2013, but any prejudice the Department suffered is offset by the prejudice the petitioner suffered as a result of the delayed denial, which impaired her ability to reapply quickly and obtain retroactive benefits. Therefore, I will remand this matter to the county agency with instructions to continue processing the petitioner’s application using the information she has available and determine whether she is eligible for benefits retroactive to April 7, 2013.

CONCLUSIONS OF LAW

The petitioner has submitted sufficient timely verification for the county agency to determine her eligibility retroactive to April 7, 2013.

THEREFORE, it is **ORDERED**

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it determine the petitioner’s eligibility retroactive to April 7, 2013. When doing so, it shall use the verification the petitioner has already submitted and not deny the application for lack of verification. If the petitioner disagrees with the agency’s decision, she may file a new appeal.

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 9th day of January, 2014

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 9, 2014.

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