



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/154605

PRELIMINARY RECITALS

Pursuant to a petition filed January 03, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a telephone hearing was held on April 29, 2014.

The issue for determination is whether petitioner's appeal of her daughter's health care benefits is 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: Chris Sobczak

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner is enrolled and is an on-going recipient of the Medicaid waivers IRIS program and the Specified Low-Income Medicare Beneficiaries (SLMB) program.
3. Petitioner's daughter is presently eligible and open for healthcare benefits pursuant to the new MAGI rules for MA.

4. On February 18, 2013, petitioner was sent written notice indicating that her BadgerCare plus enrollment would end as of March 1, 2013, due to failure to complete her renewal. On February 28, 2013, respondent notified petitioner that her daughter would be enrolled in the BadgerCare Plus Benchmark Plan, with a \$10 monthly premium, as of March 1, 2013. That notice indicated that petitioner could appeal and that a request for hearing need to be received by the Division of Hearings and Appeals by April 16, 2013.
5. Petitioner filed the instant appeal on January 3, 2014.

DISCUSSION

This appeal was initially filed by the petitioner to dispute an alleged October, 2013, reduction in MA benefits and a January, 2014, termination of medical benefits. The respondent addressed those issues prior to hearing. The respondent wrote:

...[Petitioner's] IRIS and SLMB are open. I've spoken to [petitioner] last week and completed a FoodShare renewal so as not to confuse the situation anymore.

Exhibit 3. The respondent reiterated this status in testimony at hearing, and petitioner acknowledged the status to be accurate. However, the petitioner raised the issue of MA coverage for her daughter in early 2013. She stated that her daughter had medical bills outstanding pertaining to services received in February and/or March of 2013. She believes that her daughter should have been covered.

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 petitioner filed this appeal on January 3, 2014, which means that she can only appeal decisions made on or after November 19, 2013. The respondent properly notified petitioner of her daughter's March 1, 2013, enrollment in the BadgerCare Plus Benchmark Plan on February 28, 2013. The appeal was subsequently filed months after expiration of the 45 day deadline. This means that the Division of Hearings and Appeals has no authority to consider her appeal and must dismiss it.

CONCLUSIONS OF LAW

There is 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

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 13th day of June, 2014.

\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 June 13, 2014.

Milwaukee Enrollment Services
Bureau of Long-Term Support