



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/154609

PRELIMINARY RECITALS

Pursuant to a petition filed December 30, 2013, under Wis. Stat., §49.45(5)(a), to review a decision by Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on February 5, 2014, by telephone.

The issue for determination is whether the agency started petitioner's emergency MA on the correct date.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Katherine May
Milwaukee Enrollment Services
1220 W. Vliet St., Suite 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for emergency MA for a non-U.S. citizen on October 7, 2013. He was seeking MA back to August 1, 2013.
3. The agency initially denied the application, but after petitioner appealed the agency granted the emergency MA effective September 1, 2013. The reason the agency began eligibility on that date was because petitioner's doctor signed a certification that put the beginning of the emergency on September 1, 2013.

DISCUSSION

Prior to 1996, aliens lawfully admitted to the United States for permanent residence were eligible for MA immediately upon admission to the country. See 42 C.F.R. §435.406(a)(2). In 1996 the United States Congress made a number of changes to welfare law which included the restriction of alien eligibility for welfare programs. Generally, now, United States citizenship is required for a person to be eligible for MA. See Wis. Admin. Code, §DHS 103.03(2).

The BadgerCare Plus (BC+) MA program does allow for coverage on non-citizens in emergency situations:

An emergency means a medical condition (including labor and delivery) that shows acute symptoms of sufficient severity (including severe pain) such that the lack of immediate medical treatment could result in one or more of the following:

1. Serious jeopardy to the patient's health.
2. Serious impairment to bodily functions.
3. Serious dysfunction of a bodily organ or part.

BC+ Emergency Services covers :

- Only those medical services needed for the treatment of an emergency medical condition.
- All labor and delivery services for eligible non-qualifying immigrants.

BC+ Handbook, Appendix 39.1. To verify an emergency the person's doctor can sign a form showing that medical services were required to treat an emergency situation. Handbook, App. 39.2.1. The agency then determines eligibility *for the dates indicated on the form*.

The problem with petitioner's case, therefore, is that the form provided by his doctor showed that the date the emergency started to be September 1, 2013. Based on that date the agency could not backdate eligibility to August, 2013. I thus must find that the agency correctly determined petitioner's eligibility for emergency MA, and I will dismiss this appeal. Ms. May offered to allow petitioner to submit a new form for August, 2013 if petitioner's doctor will verify on the form that the emergency actually started in August rather than September 1. This appeal does not need to be open for that to occur; Ms. May will process the new form when petitioner submits it.

CONCLUSIONS OF LAW

The agency correctly determined that petitioner's emergency MA began on September 1, 2013 based upon the verification form signed by petitioner's doctor.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 February, 2014

\sBrian C. Schneider
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 February 6, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability