



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/155460

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 13, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to Medical Assistance, a hearing was held on March 18, 2014, at Green Bay, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner’s request for medical assistance because she failed to verify financial information.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Kristy Warden  
Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County; she resides at [REDACTED] in [REDACTED], Wisconsin.

2. On July 2, 2013, the respondent sent petitioner a Notice of Proof Needed requesting verification of petitioner's savings and checking accounts, as well as her mobile home asset. The due date specified by said notice was July 11, 2013. The respondent did not receive the required verification, and on July 15, 2013, sent a notice to petitioner advising her that her nursing home long-term care benefits were denied due to failure to provide the requested verification. The record does not reflect that the petitioner's representative notified the agency that she was having trouble gathering the requested verification or request an extension on the time allowed to provide it.
3. In September, 2013, petitioner's daughter learned that GranCare was no longer receiving Medicare payments for petitioner's care. Petitioner's daughter contacted the respondent, and was informed that she had failed to provide requested verification. She indicated that the verification request had never been received, so respondent was advised to reapply.
4. Petitioner reapplied on October 10, 2013, and she was sent another request for verification on October 11, 2013, which petitioner did receive. That verification notice had a due date of November 6, 2013.
5. Petitioner's savings account statements were not received by November 6, 2013, and a notice was provided to petitioner on November 7, 2013, indicating that petitioner's application was denied. The record does not reflect that the petitioner's representative notified the agency that she was having trouble gathering the requested verification or request an extension on the time allowed to provide it.
6. On or about November 21, 2013, petitioner's savings statement was provided to the respondent.
7. On December 10, 2013, the respondent wrote to petitioner indicating that she would need to submit a new application, as her case had been denied/closed for more than 30 days. The petitioner reapplied on December 18, 2013. Verifications were requested and due January 17, 2014. All verifications were received, and petitioner was open effective September 1, 2013.
8. Respondent granted [REDACTED] request, on behalf of petitioner, to defer current patient liability; effective January 1, 2014, patient liability was adjusted to \$0.00/month to allow petitioner to pay off the private pay balance.

### DISCUSSION

The petitioner applied for medical assistance on July 20, 2011, October 10, 2013, and December 18, 2013. The county agency denied the first application (following failure to provide requested verification) on July 15, 2013, the second on November 7, 2013, and the third on was approved. Petitioner only appealed from the December 23, 2013, approval, which backdated coverage to September 1, 2013. Petitioner seeks back dated coverage to July 1, 2013. Applicants must appeal any denial within 45 days or the Division of Hearings and Appeals loses jurisdiction to consider it. Wis. Admin. Code § HA 3.05(3). The petitioner appealed only the last notice within 45 days. This means that the only application that that can be reviewed is the third. This is important because medical assistance eligibility can be made retroactive only to the first day of the month three months before the month of the application. Wis. Admin. Code, § DHS 103.08(1). Because the only application that can be reviewed was filed in December, 2013, the earliest the petitioner can be found eligible is September 1, 2013.

The county agency denied the two applications because the petitioner did not timely verify her financial information. Medicaid rules require recipients to verify relevant information, including income and assets. Wis. Admin. Code, § DHS 102.03(3)(a) and (h). 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.

The Centralized Document Processing Unit requested that the petitioner verify her bank accounts. The petitioner’s representative testified that she never received this request for verification, nor the July 15, 2013 notice terminating petitioner’s benefits. Subsequently, the record paints a complicated narrative of respondent’s attempts to follow its application procedures, and petitioner’s frustrations with providing requested verifications. Still, the record does not reflect that petitioner ever told anyone there that she had difficulty obtaining the information or that she needed more time. The agency cannot help someone obtain verification or extend the time to submit that verification if that person does not request help. Furthermore, the petitioner never appealed the earlier denials, and therefore I lack jurisdiction to rule on them. Under these circumstances, I must find that the agency properly approved the petitioner’s December, 2013, application, with eligibility backdated to September, 2013.

The petitioner has in effect argued that the respondent’s confusing procedures have treated her unfairly and that the administrative law judge should grant her relief beyond the scope of applicable program rules. If I had jurisdiction to consider the petitioner’s arguments in this regard, It is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department’s assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, she is not eligible for backdating beyond September, 2013. No exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

**CONCLUSIONS OF LAW**

The county agency properly approved the petitioner's December, 2013, application, with eligibility backdated to September, 2013.

**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 3rd day of June, 2014.

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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 June 3, 2014.

Brown County Human Services  
Division of Health Care Access and Accountability