



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
c/o Attorney [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/156584

PRELIMINARY RECITALS

Pursuant to a petition filed April 04, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Pierce County Department of Human Services in regard to Medical Assistance, a hearing was held on August 22, 2014, at Ellsworth, Wisconsin. Hearings scheduled for May 15, 2014, June 11, 2014, and July 18, 2014, were rescheduled at the petitioner’s request. The record was help open for six days at the petitioner’s request.

The issue for determination is whether the agency properly denied the petitioner’s application for medical assistance after determining that she failed to verify her assets on time.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o Attorney [REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

Attorney [REDACTED]
P O Box 127
[REDACTED]

Respondent:

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

By: Carol Hilsgen

Pierce County Department of Human Services
412 West Kinne Street
PO Box 670
Ellsworth, WI 54011

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) was a resident of Pierce County. She died on October 7, 2013.
2. The petitioner applied for medical assistance on January 21, 2014, seeking benefits retroactive to October 1, 2014. The county agency denied her application February 17, 2014. Her representative appealed that denial on April 4, 2014.
3. On February 6, 2014, the Centralized Data Processing Unit requested that the petitioner provide the following financial information by February 14, 2014: "Credit Union or Bank Statement showing current balances; Statement from the financial institution or investment company; Trust Agreement; or Copy of Bonds." Her worker added the following note pertaining more specific information to the request:

Re: Annuity Verification, the policy was with Nonwestern Mutual, contract number 17-486-166 issued 4/11/2006 of \$20,000. A Flexiable [sic] Payment Variable Annuity. Please verify the value as of 10/2013 or send proof that she no longer owned this policy.
4. The petitioner mailed the requested information to the agency on Friday, February 14, 2014. The agency received the information on February 17, 2014.

DISCUSSION

Medicaid rules require applicants to verify relevant information, including assets. Wis. Admin. Code, § DHS 102.03(3). Agencies have 30 days to process an application and must "[g]ive the applicant a minimum of ten calendar days to provide any necessary verification." *Medicaid Eligibility Handbook*, § 20.7.1.1. If applicants do not submit verifications on time, the agency is instructed to deny the application, but not until the later of:

1. the 11th day after requesting verification, **or**
2. the 31st day after the application filing date.

Id.

The petitioner's representative applied for medical assistance on her behalf on January 21, 2014, to cover the cost of her care from October 1, 2013, until she died six days later. (She was potentially eligible back to this date because medical assistance eligibility can begin as early as "the first day of the month 3 months prior to the month of application." Wis. Admin. Code, § DHS 103.08(1).) On February 6, 2014, the Centralized Data Processing Unit requested that she verify various assets by February 14, 2014. Her representative mailed the requested verifications to the agency on February 14, which was a Friday, but they did not arrive until February 17. The agency denied her application because the verifications arrived after the February 14, 2014, deadline.

The agency's decision is wrong because its verification request violated its own policy by not giving the petitioner enough time to comply with it. Ten days from the date of the February 6, 2014, request was February 16. Nothing in the policy allows the Department to shorten this period because the 10th day after the request falls on a weekend. And if there were such a policy, the request would still be invalid because 30 days from the January 21, 2014, application was February 20, 2014. Because the verification request was invalid, the agency cannot deny on the basis of a response that did not comply with the request's terms. Therefore, this matter will be remanded to the agency with instructions to continue processing the petitioner's application.

CONCLUSIONS OF LAW

The county agency cannot deny the petitioner's application for failing to verify her assets on time because its February 6, 2014, verification request was invalid.

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 continue processing the petitioner's January 21, 2014, application for medical assistance. When doing so, it shall not deny the application because her representative did not comply with the February 6, 2014, verification request on time. If the petitioner disagrees with the agency's decision, she may file a new appeal.

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 29th day of September, 2014

\sMichael D. O'Brien
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 September 29, 2014.

Pierce County Department of Human Services
Division of Health Care Access and Accountability
Attorney [REDACTED]