



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name]

DECISION

MGE/157373

PRELIMINARY RECITALS

Pursuant to a petition filed May 05, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waupaca County Department of Social Services in regard to Medical Assistance, a hearing was held on June 03, 2014, at Waupaca, Wisconsin.

The issue for determination is (1) whether the petitioner failed to comply with a request for verification subsequent to an Administrative Hearing remand; and (2) whether the agency correctly denied the petitioner's application for Medicare Premium Assistance for failure to provide verifications.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted petitioner name and address]

Petitioner's Representative:

[Redacted representative name and address]

Respondent:

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

By: Pamela Kolb

Waupaca County Department of Social Services
811 Harding Street
Waupaca, WI 54981-2087

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Waupaca County.

2. An application for Institutional/Long-Term Care MA and Medicare Premium Assistance was filed on the petitioner's behalf on September 16, 2013. Backdated eligibility for Institutional MA was sought retroactive to July 1, 2013. The application was signed by [REDACTED], and was accompanied by a cover letter from him on his law office letterhead.
3. On October 17, 2013, the agency issued written notice to the petitioner advising that his application had been denied due to failure to supply requested verification.
4. Petitioner appealed the denial, and a hearing was held on January 23, 2014. A Decision was issued on February 27, 2014, which remanded this matter to the respondent with instructions to notify [REDACTED] in writing of the needed verification for the petitioner's 9/16/2013 application within 10 days of the date of that Decision. If [REDACTED] supplied the requested verification within 20 days of this Decision's date, the agency was instructed to complete the processing of the application within 30 days of the date of that decision.
5. On March 3, 2014, the respondent sent a verification request addressed to [REDACTED].
6. [REDACTED] submitted the requested verification response to the respondent on March 19, 2014.
7. On March 21, 2014, the respondent reaffirmed its denial of petitioner's request for Nursing Home Long Term Care benefits asserting that the petitioner had again failed to supply requested verification information.

### DISCUSSION

Administrative Law Judge Gagnon, in her February 27, 2014 decision, ordered the respondent to request certain verifications from the petitioner through his attorney. The respondent timely complied. [REDACTED] thereafter provided a response to the verification request, but the respondent asserts that this response was never received. At hearing in the instant matter, the petitioner presented testimony of his legal assistant, who provided sworn testimony that she prepared the March 19, 2014 letter to the respondent, prepared an envelope with the respondent's Central Document Processing Unit (CDPU) address, typed the label for the envelope, and personally mailed the March 19, 2014 letter. She further testified that there was no mail returned to her as undeliverable.

As such, I will again remand this matter to the respondent to review the March 19, 2014 letter provided by [REDACTED] and complete the processing of the petitioner's application.

### CONCLUSIONS OF LAW

1. Petitioner's attorney timely responded to the verification request submitted subsequent to the February, 2014 decision issued by Administrative Law Judge Gagnon.
2. The respondent incorrectly denied petitioner's application for Institutional/Long-Term Care MA on the basis of petitioner's failure to supply requested verifications.

**THEREFORE, it is**

### ORDERED

That, utilizing petitioner's attorney's March 19, 2014, response to the verification request, the agency shall complete the processing of the petitioner's application for Institutional/Long-Term Care MA within 10 days of the date of this decision. A copy of petitioner's attorney's March 19, 2014, correspondence is attached to this decision.

## 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 22nd day of July, 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 July 22, 2014.

Waupaca County Department of Social Services  
Division of Health Care Access and Accountability  
Attorney [REDACTED]