



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MGE/158374

PRELIMINARY RECITALS

Pursuant to a petition filed June 17, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dunn County Department of Human Services in regard to Medical Assistance, a hearing was held on July 17, 2014, at Menomonie, Wisconsin.

The issue for determination is whether the petitioner's medical assistance eligibility can be extended beyond his deductible period.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Paula Goodell

Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) resides alone in Dunn County.

2. The petitioner applied for medical assistance on February 7, 2014, and requested that he receive retroactive benefits. The county agency determined in March 2014 that he would be eligible after he demonstrated that he met a \$4,348.98 deductible.
3. The petitioner verified on May 16, 2014 that he had incurred \$4,469.09 in medical bills through November 2013. On May 24, 2014, the agency found him eligible for medical assistance from December 1, 2013, through May 1, 2014.
4. The petitioner requests that his medical assistance eligibility be extended for 90 days beyond May 31, 2014, because of the delays in determining his previous eligibility.
5. The petitioner is 78 years old.
6. The petitioner receives \$1,340 in social security each month after his Medicare premium is deducted. One hundred percent of the federal poverty level for a one-person household is \$972 per month.

DISCUSSION

A person is medically needy if he meets only the program's non-financial conditions. Wis. Admin. Code § DHS 101.03(97). The petitioner meets the program's non-financial conditions because he is over 65. He does not meet the program's financial conditions because his income exceeds 100% of the federal poverty level, which for a single person such as himself is \$972 per month. Wis. Stat. § 49.471(4)(a); *Medicaid Eligibility Handbook*, § 39.5. If a person is medically needy, he must meet a deductible if his net income exceeds the medical assistance program's limit. *See* Wis. Stats. § 49.47(4)(c)2; Wis. Admin. Code § DHS 103.08(2)(a). The income limit, \$591.67 for a one or two-person household, is determined by a complex formula found in Wis. Stat. § 49.47(c)(1). *See also Medicaid Eligibility Handbook*, § 39.4. The amount of the deductible is determined for a six-month period and must be paid toward medical expenses before the person becomes eligible for any medical assistance benefits. Wis. Admin. Code § DHS 103.08(2)(c).

The petitioner applied for medical assistance on February 7, 2014, and requested that he receive retroactive benefits. The county agency determined in March 2014 that he would be eligible after he demonstrated that he met a \$4,348.98 deductible. He does not dispute the amount of the deductible, and could not at this point if he wished to because more than 45 days have elapsed since the agency's decision. Wis. Admin. Code, § HA 3.05(3). The petitioner had considerable difficulty providing all of the documentation required to establish his deductible. He testified that the hotel he stays at would not let him use its fax machine. There were many calls back and forth between him and various agency workers, who told him he needed to verify his information. He indicated that his pulse was running high, so he could not bring the receipts into the agency. A worker came to pick up the documentation, but he would not give them to her without receipts for each. The worker offered to take pictures of the documentation on her cell phone but this did not satisfy him. Finally, in May 2014, he provided the documentation. The agency determined on May 24, 2014, that he had met the deductible in November 2013 and found him eligible from December 1, 2013, through May 31, 2014.

The petitioner concedes that he has not yet met his deductible for the period beginning June 1, 2014. Nevertheless, he seeks 90 days of additional eligibility beginning on that date so that he can obtain needed medical care. He contends that he is entitled to this period because the agency caused delays in the determination of his previous deductible period, which prevented him from obtaining care during it.

I am not going to assign blame for the delay because it is irrelevant to the outcome of this matter. What the petitioner is asking for is equitable relief, which allows a tribunal to consider the fairness of a situation and go beyond the four corners of the law. But administrative law judges have no equitable powers. *See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). This means that I must follow the law as it is written. The law in this case allows eligibility

only after the recipient has met the deductible in each six-month period; it does not provide for an extension to the period if the recipient had difficulty verifying that he was eligible. Therefore, I cannot grant his request.

CONCLUSIONS OF LAW

The Division of Hearings and Appeals has no authority to extend the petitioner's period of medical assistance eligibility beyond the six-month period in which he has met his deductible.

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 14th day of August, 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 August 14, 2014.

Dane County Department of Human Services
Division of Health Care Access and Accountability
Attorney Brenda Haskins