



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MGE/158283

PRELIMINARY RECITALS

Pursuant to a petition filed June 10, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on July 17, 2014, at Hayward, Wisconsin.

The issue for determination is whether the petitioner’s appeal is timely.

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

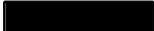
By: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) is a resident of Sawyer County.
2. The petitioner applied for medical assistance in August 2013 and was informed on August 27, 2013, that he would be eligible after he met an \$8,851.98 deductible.

3. The petitioner filed a new application on January 13, 2014, requesting benefits retroactive to November 1, 2013.
4. The county agency notified him on January 23, 2014, that he was ineligible for benefits in November and December 2013 because his assets exceeded \$2,000. He did not receive this notice until March 10, 2014. He appealed on June 10, 2014.

DISCUSSION

Medically needy persons have had to meet a deductible before receiving benefits. *See* Wis. Stats. § 49.47(4)(c)2; Wis. Admin. Code § DHS 103.08(2)(a). A person is medically needy if he meets only the program's non-financial conditions. Wis. Admin. Code § DHS 101.03(97). The parties agree that the petitioner was considered medically needy. For a one or two-person household, the amount of the deductible is any income that exceeds \$591.67, an amount 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 incurred in medical expenses before the person becomes eligible for any medical assistance benefits. Wis. Admin. Code § DHS 103.08(2)(c).

The petitioner was notified on August 27, 2013, that he would be eligible after he met an \$8,851.98 deductible. He had significant medical care in November and December 2013 that would have met the deductible. However, although medical assistance rules require only that a recipient *incur* medical expenses, he thought he actually had to pay those bills. As a result, he saved and borrowed money. Medical assistance recipient cannot have more than \$2,000 in assets. *See* Wis. Admin. Code, § DHS 103.06(1)(a); Wis. Stat. §§ 49.46(1) and 49.47(4). He reapplied in January 2014, seeking benefits retroactive to November 2013. The county agency determined that the money he borrowed and saved put his assets over this limit and found him ineligible for retroactive benefits.

Regardless of the merits of the petitioner's appeal, I have no jurisdiction to consider it because it was not filed within 45 days as required by Wis. Admin. Code, § HA 3.05(3). The county agency notified the petitioner of its decision on January 23, 2014, but he did not appeal until June 10, 2014, or 151 days later. The petitioner contends that he did not receive the notice until March 10, 2014, but even this was 92 days before he appealed. When an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it.

CONCLUSIONS OF LAW

There is no jurisdiction to consider the petitioner's appeal because it is late.

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.

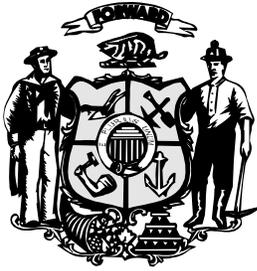
APPEAL TO COURT

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 11th 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 11, 2014.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability