



FH
[REDACTED]

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

In the Matter of

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

DECISION

WFC/158368

PRELIMINARY RECITALS

Pursuant to a petition filed June 13, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability (DHCAA or Division) in regard to a Medical Assistance (MA or Medicaid)-related benefit, a hearing was held on August 5, 2014, by telephone.

The issue for determination are (1) whether the hearing request was filed on time, and (2) whether the Division correctly determined the amount of the allowable payment of Wis. Stat. §49.785 funeral expenses for this decedent.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Sarah Warwick, IM Spec. 2
Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Monroe County.

2. The petitioner died on February 24, 2014. Her funeral director requested reimbursement under the Wisconsin Funeral and Cemetery Aid Program for various expenses related to her burial.
3. The Department notified the funeral director on April 17, 2014, that it was denying his request for reimbursement for cash advances to cover the costs of a cremation permit and a monument. Other expenses totaling \$2,050 were approved.
4. The funeral director filed an appeal on behalf of the petitioner on June 13, 2014 (postmark).

DISCUSSION

The Department will pay some of the funeral and burial expenses of indigent persons who were receiving certain public welfare benefits. Wis. Stat. § 49.785. The petitioner died on February 24, 2014, and her funeral director sought reimbursement under the program for various expenses incurred in February 2014. On April 17, 2014, the Department approved some of the expenses but denied the request for a grave liner. The funeral director appealed this denial on June 13, 2014. The Director testified that he received a document, in addition to the program's standard Notice of Decision, indicating that there was an appeal deadline.

The funeral director had **45** days to appeal the Department's denial. Wis. Admin. Code § HA 3.05(3). It submitted this appeal 57 days after the denial. If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it. This decision does not prevent him from filing a similar appeal on behalf of another decedent.

CONCLUSIONS OF LAW

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

THEREFORE, it is

ORDERED

That the petition 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 25th day of November, 2014

\sNancy J. Gagnon
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 November 25, 2014.

Division of Health Care Access and Accountability
Wisconsin Funeral and Cemetery Aids Program - DHS