



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MGE/158456

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 La Crosse County Department of Human Services in regard to Medical Assistance, a hearing was held on July 14, 2014, at Black River Falls, Wisconsin.

The issue for determination is whether the medical assistance agency properly notified the petitioner before ending her medical assistance benefits.

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: Tom Miller

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [redacted]) is a resident of Jackson County.
2. The petitioner received medical assistance because she was eligible for SSI. The Western Region for Economic Assistance sent her an undated notice that did not include any appeal language.

That notice indicated that the agency had received notice that her “SSI income will be ending in [sic] January 31, 2014, and that her “Medical benefits will be ending as of February 29, 2014 as well.” The notice was probably sent to the petitioner on December 9, 2013, and included an elderly, blind, and disabled application for medical assistance.

3. The petitioner applied for medical assistance on February 25, 2014. The county agency notified her on March 6, 2014, that she would be eligible after meeting a deductible of \$1,357.99 for February 1, 2014, through July 31, 2014.
4. No notices other than those mentioned in these Findings of Fact were sent to the petitioner.

### **DISCUSSION**

The petitioner had been receiving medical assistance because she was eligible for SSI. The Western Region for Economic Assistance sent her a notice indicating that the agency had received notice that her “SSI income will be ending in [sic] January 31, 2014, and that her “Medical benefits will be ending as of February 29, 2014 as well.” [The last day in February 2014 is actually the 28<sup>th</sup>. ] The notice does not contain any appeal language and is undated but, based upon case notes in the file, appears to have been sent on December 9, 2013. The only other notice in the record is dated March 6, 2014. The petitioner had applied for medical assistance on February 25, 2014, in response to the earlier notice. The March 6 notice indicates that she would be eligible for medical assistance after meeting a deductible of \$1,357.99 for February 1, 2014, through July 31, 2014. The petitioner’s complaint is that she relied upon the notice indicating that her benefits would continue through February and obtained medical care that the medical assistance program will not cover because its agency contends that she was ineligible that month.

Before ending medical assistance benefits, Wis. Admin. Code, § DHS 103.09(4) requires that the agency

shall give the recipient timely advance notice and explanation of the agency's intention to terminate MA. This notice shall be in writing and shall be mailed to the recipient at least 10 calendar days before the effective date of the proposed action. The notice shall clearly state what action the agency intends to take and the specific regulation supporting that action, and shall explain the right to appeal the proposed action and the circumstances under which MA is continued if a fair hearing is requested.

The agency presented no evidence that it informed the petitioner in advance that her benefits would end before the last day of February 2014. Based upon this, I find that her benefits should have continued and will order the agency to reinstate her for February 2014.

I note to the petitioner that she should provide a copy of this decision to any medical providers she saw in February 2014 so that they can resubmit any claims to the medical assistance program. The providers should wait at least two weeks from the date of this decision before submitting the claims to ensure that the petitioner’s eligibility for February 2014 has been restored. However, they must submit any claims within a year of the date of the service. Assuming these services are covered by medical assistance, the providers cannot make any further claim for payment against the petitioner.

### **CONCLUSIONS OF LAW**

The medical assistance agency did not provide proper notice to the petitioner before ending her medical assistance benefits.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the La Crosse County Department of Human Services with instructions that within 10 days of the date of this decision it reinstate her into the medical assistance program for the entire month of February 2014. Nothing in this decision entitles the petitioner to any benefits after February 28, 2014.

### **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 13th day of August, 2014

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\sMichael D. O'Brien  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 13, 2014.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability