



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

WFC/158624

PRELIMINARY RECITALS

Pursuant to a petition filed June 25, 2014, under , to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on July 15, 2014, at Ashland, Wisconsin.

The issue for determination is whether the petitioner’s funeral director filed his appeal on time.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Sarah Warwick

Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Ashland County.
2. The petitioner died on March 7, 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 May 6, 2014, that it was denying his request for the grave liner.
4. The funeral director filed an appeal on behalf of the petitioner on June 25, 2014.

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 March 7, 2014, and her funeral director sought reimbursement under the program for various expenses. On May 6, 2014, the Department approved some of the expenses but denied the request for a grave liner. The funeral director appealed this denial on June 25, 2014.

The funeral director had 45 days to appeal the Department 's denial. Wis. Admin. Code § HA 3.05(3). It submitted this appeal 50 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. The funeral director pointed out that the Department has placed so made it so obstacles in the way of getting reimbursed that he has had to hire another billing person because he cannot keep up with the Department's denials, modifications, conflicting advice, and constantly changing interpretations of the law. Although I understand why he is upset, I have no jurisdiction to resurrect his appeal. Of course, nothing prevents 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

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 15th day of July, 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 July 15, 2014.

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