



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MQB/158999

PRELIMINARY RECITALS

Pursuant to a petition filed July 10, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on August 06, 2014, at Milwaukee, Wisconsin.

The issue for determination is

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Simone Johnson

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was an ongoing recipient of QMB premium assistance benefits.
3. On March 5, 2014, petitioner applied for MAPP benefits. Petitioner included information about a Landmark Credit Union Savings Account. The agency had no knowledge of this account

previously. The agency sought to verify assets and sent a request for verification to petitioner seeking a statement from this account.

4. Petitioner did not provide the verification and the agency terminated QMB benefits by notice dated 3/18/14 and an effective date of April 1, 2014. Petitioner did not appeal from that notice of termination. After termination, the premiums for petitioner's Medicare were apparently deducted from other Federal benefits.
5. Petitioner filed this appeal on July 14, 2014 specifically seeking reimbursement of the deducted premiums complaining that the termination was error.

DISCUSSION

An applicant for MA or a representative acting on the applicant's behalf is responsible for providing the agency with full, correct, and truthful information. Wis. Adm. Code §HFS 102.01(6). Income and assets must be verified. §DHS 102.03(3) (a) and (h). **MA shall be denied when the applicant is able to produce the required verification but fails to do so. §HFS 102.03(1).** (Emphasis added). If the applicant is unable to produce the verification, the agency must assist her/him. Id. An application must be processed within 30 days of its filing date. §DHS 102.04(1); §DHS 104.01(10). If there is a delay in securing information, the agency must notify the applicant of the delay and the reason for the delay. §DHS 102.04(1).

The Department interprets those requirements in its Income Maintenance Manual, Chapter I, Part C. Asset and income verification is mandatory. IMM, I-C-9.3.0 & 9.1.0. The county shall deny benefits when all of the following are true: (1) the applicant has been given adequate notice of the verification required, (2) the verification is necessary to determine current eligibility, (3) the applicant has the power to produce the verification, (4) the time allowed to produce the verification has passed. IMM, I-C-3.3.0. The agency generally should allow **10 days for verification**, but it cannot deny an application until at least 31 days have passed since it was filed. IMM, I-C-5.1.0.

In this case, the county agency sent a request for verification on 3/6/14 specifically asking for a bank statement reflecting the balance from the "Savings Account – Landmark Credit." The notice required the verification be submitted by March 17, 2014. Petitioner stated at hearing that she was confused by this request as the Landmark Savings Account holds her assets but is in the name of her payee. Petitioner argues that she really had no idea what account the agency sought information on as the account is not hers. I find this hard to believe as petitioner herself had included the account on the benefits application which is why the agency sought verification the day following the application. So, apparently, rather than contact the agency or ask her payee to provide a statement she simply did nothing. Termination was justified and was not error on this basis.

But, this appeal is also not timely. An administrative law judge (ALJ) or hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning Medical Assistance (MA) must be filed within 45 days of the date of the action. Sections 49.45(5) and 49.50(8), Wis. Stats.; Income Maintenance Manual, II-G-3.4.0. A negative action can be the denial of an application, reduction, incorrect effective date of eligibility for benefits, the incorrect calculation of benefits or payments, termination of an ongoing case, or an overpayment notice. In this case, the negative action was the April 1, 2014 termination of QMB. The March 18, 2014 notice of termination informed petitioner that an appeal needed to be filed by May 19, 2014. The appeal was filed approximately two months late.

CONCLUSIONS OF LAW

1. The petitioner failed to file a timely appeal.
2. The county agency correctly discontinued petitioner's QMB benefits effective April 1, 2014, due to petitioner's failure to provide required financial verification needed to determine petitioner's continued eligibility and benefits.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be and the same is hereby 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 September, 2014

\sJohn P. Tedesco
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 11, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability