



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

BCS/159162

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 16, 2014, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on August 19, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly discontinued BC+ benefits for the Petitioner's son.

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:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County
2. On February 18, 2014, DZ (the Petitioner's son) filed an application for BC+ benefits.

3. On February 27, 2014, the agency issued a Notice of Information Needed to DZ informing him that additional tax information was needed to process his application. The due date for the requested information was March 20, 2014.
4. On March 24, 2014, the agency issued a Notice of Decision to DZ informing him that his application was approved for BC+ with no monthly premium effective April 1, 2014.
5. On March 31, 2014, the agency issued a Notice of Decision to DZ informing him that his healthcare benefits would end on May 1, 2014 due to a failure to provide requested tax information to process his application. The notice also informed DZ that he had a right to a hearing on the agency's determination by filing an appeal with the Division of Hearings and Appeals by June 16, 2014.
6. On July 16, 2014, the Petitioner filed an appeal on behalf of DZ with the Division of Hearings and Appeals.

### **DISCUSSION**

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by an agency concerning Medicaid, including BC+, must be filed within 45 days of the date of the action. Wis. Stat. § 49.45(5). The petitioner's appeal was filed 30 days after the appeal deadline. At the hearing, the Petitioner testified she did not receive the request for information but she did receive the notice that benefits would end. Based on the testimony and evidence, I conclude the appeal was untimely and no jurisdiction exists for considering the merits of the case.

I note that this decision does not prohibit DZ from re-applying for benefits.

### **CONCLUSIONS OF LAW**

The appeal was untimely.

**THEREFORE, it is**

**ORDERED**

The Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 16th day of September, 2014

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\sDebra Bursinger  
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 September 16, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability