



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/159289

PRELIMINARY RECITALS

Pursuant to a petition filed July 24, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to Medical Assistance, a hearing was held on August 21, 2014, at Janesville, Wisconsin.

NOTE: The record was held open to give Petitioner’s representative, Mr. [REDACTED] an opportunity to submit verification of the Petitioner’s incapacitation. Mr. [REDACTED] faxed a copy of a letter, dated September 18, 2014, from Petitioner’s, as well as some bank statements. The fax has been marked collectively as Exhibit 11 and entered into the record.

The issue for determination is whether Petitioner’s Medicaid application had a valid signature.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Yadira Luis, Economic Support Specialist
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. On February 19, 2014, an application for Medicaid benefits was submitted on behalf of the Petitioner. The application was signed by [REDACTED], who is a patient advocate from The [REDACTED] Companies. (Exhibit 3; Testimony of Mr. [REDACTED])
3. Petitioner suffered a stroke in February 2014, and as a result, she became incapacitated and was hospitalized in Illinois. This is why Mr. [REDACTED] became involved. Because the Petitioner was not able to act on her own behalf, Mr. [REDACTED] contacted her daughter, TR, and asked her to sign an authorized representative form, appointing him the Petitioner's representative. (Testimony of Mr. [REDACTED]; Exhibits 1, 4, 7 and 11)
4. On April 11, 2014, another application for Medicaid benefits was submitted on behalf of the Petitioner. The application was again signed by Mr. [REDACTED]. (Exhibit 5)
5. On August 7, 2014, the agency sent the Petitioner a Request for Verification, asking for verification of a checking account, a valid signature on the application and power of attorney paper work, if any. (Exhibit 10)
6. On August 8, 2014, the agency sent the Petitioner a Notice of Proof Needed seeking verification a checking account, due by August 18, 2014. The notice contained a "Note from your worker" that indicated that a valid signature was needed for the application and that the agency needed to see Power of Attorney paper work showing that Petitioner's daughter TR was Petitioner's power of attorney. (Exhibit 9)
7. Mr. [REDACTED] filed a request for fair hearing, on behalf of Petitioner, that was received by the Division of Hearings and Appeals on July 24, 2014.
8. As of the date of the hearing, no denial of Petitioner's application had been issued by the agency, but that the agency anticipated issuing a notice denying benefits, due to the lack of a valid signature. (Testimony of Ms. Luis)
9. The Petitioner was unable to participate in the hearing because she suffers from severe cognitive deficits. (Letter from Dr. Mustansir Majeed - Exhibit 2, pg. 3)

DISCUSSION

Mr. [REDACTED] filed an appeal, to contest the delays in processing the Petitioner's application. It is the agency's contention that it has acted reasonably, because it does not believe, Mr. [REDACTED] signature on Petitioner's applications for Medicaid benefits is a valid signature.

An applicant must sign the Medicaid application, using his or her own signature. *Medicaid Eligibility Handbook §2.5.1* However, *MEH §2.5.1* lists seven exceptions to this rule:

1. A guardian may sign for the applicant.
2. An authorized representative may sign for the applicant.
3. The applicant's durable power of attorney may sign for the applicant.
4. **Someone acting responsibly for the individual signs the form on behalf of the individual, if the individual is incompetent or incapacitated.**
5. A superintendent of a state mental health institute or center for the developmentally disabled signs on behalf of a patient.
6. A warden signed the application for an inmate of state correctional institution that is out for more than 24 hours

7. The director of a county social or human services department delegates, in writing, to the superintendent of the county psychiatric institution the authority to sign and witness an application for residents of the institution.

Emphasis added.

In the case at hand, the Petitioner became incapacitated due to a stroke and now suffers from cognitive deficits. According to Dr. Michael Beck's September 18, 2014 letter, he treated the Petitioner while she was in the hospital between February 1, 2014 and April 1, 2014 and that it was clear, "that she will suffer lifelong severe physical and cognitive deficits and will, in my opinion, never be decisional patient." (Exhibit 11) Mr. [REDACTED] was acting responsibly for the Petitioner when he signed the Medicaid application of February 19, 2014. As such, his signature on the application for February 2014 was valid and the agency should treat it as such.

CONCLUSIONS OF LAW

Mr. [REDACTED] signature on the February 19, 2014 Medicaid application was a valid signature per *MEH* §2.5.1.

THEREFORE, it is

ORDERED

That the agency continue processing the February 19, 2014 Medicaid application. If further verifications are needed, the agency shall issue 10-day notice to the Petitioner, in care of her representative – Mr. [REDACTED]. Immediately upon receipt of those verifications, the agency shall determine the Petitioner's eligibility for Medicaid, from the start date requested in the February 19, 2014 application.

The agency shall complete all these tasks within 20 days of this decision.

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).

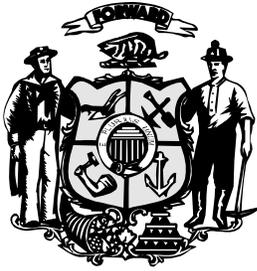
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that

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 30th day of September, 2014.

\sMayumi M. Ishii
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: DHAmil@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 30, 2014.

Racine County Department of Human Services
Division of Health Care Access and Accountability
kmatthews@glmil.com