



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/159590

PRELIMINARY RECITALS

Pursuant to a petition filed August 2, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on September 9, 2014. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: FOO-159591.

The issue for determination is whether it was correct to deny petitioner’s July 2014 application for MA.

There appeared at that time via telephone following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Mary Donahue, ES Supervisor
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County, Wisconsin.
2. On July 11, 2014 petitioner applied for MA.
3. Petitioner is not a U.S. citizen; he entered the United States in 2010.
4. On or about July 18, 2014 he County denied petitioner's MA application because he was not a U.S. Citizen or an eligible alien.

DISCUSSION

In order to be eligible for MA a person must be either a U.S. citizen or, if they are not a U.S. citizen, meet certain other requirements. 42 C.F.R. § 435.406 (2012); *Medicaid Eligibility Handbook* ["MEH"], 7.3.1; See also, Wis. Admin. Code § DHS 103.03(2) (December 2008).

With certain exceptions not relevant here (refugees, asylees, immigrants whose deportation has been withheld, Cuban/Haitian, etc.) a person who is not a U.S. citizen is not eligible for MA unless they have resided in the United States for at least 5 years since they became a qualified alien. MEH 7.3.1.1.e. & 7.3.4.01. A *qualified alien* includes an alien who is lawfully admitted to the United States for permanent residence. MEH 7.3.1.7; See also, 8 U.S.C. § 1641(b)(1) (2008); 42 C.F.R. § 435.406(a)(2) (2012). Petitioner entered the United States in 2010. Therefore, he will not be eligible for MA until at least 5 years after he entered in 2010. It follows that it was correct to deny him eligibility for MA at this time.

Petitioner argues that he needs to be in the U.S. for only 3 years -- not 5 years -- to be eligible for MA. He testified that he is already receiving government assistance for housing and food. However, as noted above, the law regarding MA is clear that, with certain exceptions not relevant here (refugees, asylees, immigrants whose deportation has been withheld, Cuban/Haitian, etc.), a person who is not a U.S. citizen is not eligible for MA unless they have resided in the United States for at least 5 years since they became a qualified alien.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to deny petitioner's July 2014 application for MA.

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 18th day of September, 2014

\sSean P. Maloney
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 September 18, 2014.

Rock County Department of Social Services
Division of Health Care Access and Accountability