



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name]

DECISION

FCP/159627

PRELIMINARY RECITALS

Pursuant to a petition filed August 07, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the St. Croix County Department of Human Services in regard to Medical Assistance, a hearing was held on September 17, 2014, at New Richmond, Wisconsin.

The issue for determination is whether the petitioner filed his appeal on time.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted petitioner name]

By [Redacted name], Attorney

[Redacted attorney address]

Respondent:

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

By: Jen Feyereisen
St. Croix County Department of Human Services
1445 N. Fourth Street
New Richmond, WI 54017-1063

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of St. Croix County.

2. The petitioner applied for medical assistance on May 30, 2014. The county agency denied that application on June 19, 2014. He appealed that denial on August 7, 2014.

DISCUSSION

Those seeking to appeal the denial of medical assistance must do so within 45 days of the date of the negative action. Wis. Admin. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the appeal and must dismiss it. The county agency denied the petitioner's application for medical assistance on June 19, 2014. He appealed that denial on August 7, 2014, which is 49 days later. Because the appeal is late, there is no jurisdiction to consider it.

As discussed at the hearing, the petitioner filed a new application on August 28, which means that he could be eligible as early as May 1, 2014. This decision does not affect that application. Also, as noted, the petitioner and his attorney agreed that even if the current appeal had not been late, the Division of Hearings and Appeals could dismiss it because the new application adequately protects its interests.

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 18th day of September, 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 September 18, 2014.

St. Croix County Department of Human Services
Office of Family Care Expansion