



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MPA/161758

PRELIMINARY RECITALS

Pursuant to a petition filed November 06, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on December 03, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether this appeal is timely.

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: Marcie Oakes, RN

Division of Health Care Access and Accountability
1 West Wilson Street, Room 272
P.O. Box 309
Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. A prior authorization request seeking 24.5 hours per week (3.5 hours per day) of personal care services as well as travel time and 2 skilled nursing visits to be used as needed was submitted on behalf of Petitioner on or about June 27, 2014. The cost was noted to be \$34,110.00.

3. The request noted at Finding # 2 was denied in part – 2.5 hours per day of personal care services were approved. Petitioner was so notified by notice dated August 27, 2014. That notice was sent to Petitioner at the above address, did contain appeal instructions and noted an appeal deadline of October 11, 2014.
4. This appeal was submitted by Petitioner to the Division of Hearings and Appeals (DHA) on November 6, 2014 via fax.

DISCUSSION

Medical assistance recipients must appeal negative decisions within 45 days of the date of the decision or the date that the decision takes effect, whichever is later. *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 matter and must dismiss it. Because this appeal was filed after the appeal deadline, the Division of Hearings and Appeals has no jurisdiction, again no legal authority, to consider it and therefore must deny it.

Finally, I note for Petitioner that the provider will not receive a copy of this Decision. If Petitioner wishes the provider to have a copy, Petitioner must provide a copy to the provider.

CONCLUSIONS OF LAW

There is no jurisdiction to consider the Petitioner's appeal because it is untimely.

THEREFORE, it is

ORDERED

That this 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 Milwaukee,
Wisconsin, this 26th day of January, 2015

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on January 27, 2015.

Division of Health Care Access and Accountability