



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FCP/161991

PRELIMINARY RECITALS

Pursuant to a petition filed November 17, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on March 05, 2015, at Milwaukee, Wisconsin. On January 9, 2015, an order of dismissal was issued by the Division of Hearings and Appeals when the Petitioner’s representative failed to appear for a hearing. On January 29, 2015, the Petitioner’s request for a rehearing was granted.

The issue for determination is whether the agency determined the proper start date for Petitioner’s eligibility for the Family Care program.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Desiree Pollard Badji
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. Petitioner applied for the Family Care program on July 21, 2014. During the agency's processing of Petitioner's application, the agency noted a previous case of the Petitioner had been pended in 2005 for verification of a life insurance policy from [REDACTED]. This life insurance policy was not reported on Petitioner's application because she no longer has the policy. The agency pended the Petitioner's current Family Care application based on the previous case that was pended for verification of the [REDACTED] policy.
3. On July 22, 2014, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of the [REDACTED] policy. The due date for the verification was August 14, 2014.
4. On August 15, 2014, the agency issued a Notice of Decision to the Petitioner informing her that she was not enrolled in Family Care effective July 1, 2014 but was eligible for Medicaid effective August 1, 2014 with a deductible of \$5,575.32.
5. On August 14, 2014, the Petitioner's representative contacted the agency regarding the [REDACTED] policy and informed the agency that [REDACTED] has no record of a policy and the Petitioner has no recall of a policy from [REDACTED]. The agency extended the due date for verification to August 29, 2014.
6. On August 19, 2014, the agency received verification from [REDACTED] that the Petitioner has no policy. On September 3, 2014, the agency processed the case.
7. On September 4, 2014, the agency issued a Notice of Decision to the Petitioner informing her that she is eligible for Family Care effective October 1, 2014 with a monthly cost share of \$519.89.
8. Petitioner resided at [REDACTED] CBRF in August and September, 2014. She currently resides at [REDACTED] CBRF.

DISCUSSION

The Family Care program, which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10.

In this case, the Petitioner submitted an application for Family Care on July 21, 2014. The application did not report a life insurance policy with [REDACTED]. The worker, in processing the Petitioner's application, noted that the agency had requested verification about the [REDACTED] policy in relation to a 2005 case of the Petitioner's and no verification had been received in that case. The worker then pended the current case and requested verification of the [REDACTED] policy. Verification that the Petitioner never had a [REDACTED] policy was received by the agency on August 19, 2014. The agency processed the application on September 3, 2014, making the Petitioner eligible for Family Care effective October 1, 2014 with a monthly cost share.

The Petitioner disputes the start date for Family Care, asserting that she should have opened August 1, 2014 based on her application filing on July 22, 2014.

The agency is required to verify life insurance at the time of application if the Petitioner has life insurance or has reported it. Medicaid Eligibility Handbook (MEH), §§ 20.1, 20.3 and 20.7. In this case, no life

insurance policy was reported on the Petitioner's application and therefore, verification of that policy was not required to process the Petitioner's eligibility. All of the information needed to process the application, based on the information in it was available. Requiring verification of the [REDACTED] life insurance policy from 2005 was over-verification and therefore not required. MEH, §20.2.

At the hearing, the agency concedes that it should not have pended the Petitioner's current case based on the case from 2005 which was closed for failure to verify the life insurance policy. The current application did not report a life insurance policy from [REDACTED] and the agency had no other information that the Petitioner had such a policy. The agency noted that this was the only item that prevented the Petitioner's current case from being processed. I further note that the Petitioner's representative did provide verification from [REDACTED] by the due date, verifying that the Petitioner never had a life insurance policy with [REDACTED].

At the hearing, the agency conceded that the application submitted on July 22, 2014 was complete and if the agency had properly processed the application, the Petitioner would have been opened for Family Care effective August 1, 2014.

Generally, the enrollment date for Family Care is the date the member is found to be financially and functionally eligible and is enrolled in an MCO. MEH, Chapter 29. There is no provision for backdating eligibility. However, this is a unique case in which the Petitioner was eligible for Family Care on August 1, 2014 and would have been enrolled on that date but for the agency's improper request to verify the life insurance policy.

The agency further noted that the monthly cost share for the Petitioner would have been the same, specifically that Petitioner would have had a monthly cost share effective August 1, 2014 of \$519.89. The Petitioner does not dispute the calculation of her monthly cost share.

Based on the evidence, I conclude that the agency should have found the Petitioner eligible for Family Care effective August 1, 2014.

CONCLUSIONS OF LAW

The agency did not properly process the Petitioner's application when it pended the case for verification of a life insurance policy that did not require verification. The Petitioner was eligible for Family Care effective August 1, 2014 and should have been enrolled on that date.

THEREFORE, it is

ORDERED

That the agency take all administrative steps necessary to open Petitioner's Family Care case effective August 1, 2014 and to make payments to the assisted living provider where Petitioner resided for August and September, 2014. Petitioner is responsible for a cost share of \$519.89/month to the provider for August and September, 2014. The agency's actions shall be completed within 10 days of the date of this decision.

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.

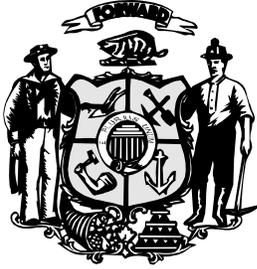
APPEAL TO COURT

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 10th day of March, 2015

\sDebra Bursinger
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 March 10, 2015.

Milwaukee Enrollment Services
Office of Family Care Expansion