



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
[Redacted]

DECISION

BCS/163597

PRELIMINARY RECITALS

Pursuant to a petition filed January 31, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance, a telephone hearing was held on March 03, 2015.

The issue for determination is whether the petitioner's appeal is timely.

There appeared at that time 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: [Redacted]

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Monroe County.
2. Petitioner applied for FS benefits on December 12, 2014. She reported self-employment income from [Redacted] and [Redacted]

3. Petitioner applied for MA in November, 2014, but was denied. A subsequent application in December, 2014 was approved, and the approval was backdated to September 1, 2014.
4. Petitioner filed a request for Fair Hearing on January 31, 2014.

### DISCUSSION

At hearing the petitioner testified that she had applied for Medical Assistance benefits in November, 2014. She reported that she was denied and was asked to reapply for Medical Assistance benefits in December, 2014. The respondent testified that petitioner's Medical Assistance group of five people was determined eligible and all benefits reinstated to September 1, 2014.

Since the petitioner's assistance group is presently enrolled, the only remaining issue would be whether the lapse in MA enrollment in July and August of 2014 was properly asserted by the respondent. That issue, however, is legally stale. An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a). If an appeal is untimely the Division of Hearings and Appeals does not have jurisdiction to address the appeal issue. Petitioner testified that she has been trying to get her budget/eligibility issues with the respondent resolved since last April (2014); unfortunately, this does not constitute good cause for failing to timely appeal a negative decision. Petitioner filed this appeal on January 31, 2015, 214 days after the July 1, 2014, effective date of the loss of MA enrollment. The appeal therefore is untimely, and the Division of Hearings and Appeals does not have jurisdiction to address its merits.

### CONCLUSIONS OF LAW

Petitioner's appeal of the MA lapse in July and August of 2014 is untimely.

**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 24th day of March, 2015.

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\sPeter McCombs  
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 24, 2015.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability