



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/164156

PRELIMINARY RECITALS

Pursuant to a petition filed February 25, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Fond Du Lac County Department of Social Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on March 19, 2015.

A *Decision* dated March 27, 2015 was issued in this matter dismissing this matter as withdrawn. That was an administrative error. This matter has not been withdrawn.

The issue for determination is whether petitioner may have a decision on the merits of the issue in this matter when he had previously requested a Hearing on the same issue, had an opportunity to be heard, and had a final *Decision* issued.

There appeared at that time via telephone 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: Deborah Bohlman, ESS
Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County, Wisconsin.
2. Petitioner received notice that his BadgerCare Plus MA ["BC+"] would end effective January 1, 2015 because he was incarcerated; he requested a Hearing.
3. A Hearing was scheduled for January 22, 2015; petitioner failed to appear for that January 22nd Hearing and a *Decision* dated January 23, 2015 was issued dismissing petitioner's petition as abandoned; petitioner did not request a rehearing or appeal that *Decision*. DHA Case No. BCS-162920 (Wis. Div. Hearings & Appeals January 23, 2015) (DHS).
4. On February 25, 2015 petitioner again requested a Hearing concerning his BC+ ending effective January 1, 2015 because he was incarcerated.

DISCUSSION

When a petition for review is dismissed in its entirety final administrative action is taken on the date the Division of Hearings and Appeals ["DHA"] mails the *Decision* to the petitioner. Wis. Admin. Code § HA 3.09(12) (February 2013). Thus, final administrative action on the issue of petitioner's BC+ ending effective January 1, 2015 because he was incarcerated was taken by the January 23, 2015 *Decision* dismissing the petition in appeal number BCS-162290. That *Decision* was not appealed nor was a rehearing requested. Petitioner cannot now have a decision on the merits of that issue because he previously requested a Hearing, had an opportunity to be heard, and had a final *Decision* issued. It follows that this matter (BCS/164156) must be DISMISSED.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner may not have a decision on the merits of the issue in this matter because he had previously requested a Hearing on the same issue, had an opportunity to be heard, and had a final *Decision* issued.

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 14th day of April, 2015

\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 April 14, 2015.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability