



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/164334

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 25, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on March 24, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner’s appeal is timely and, if so, whether the agency properly determined Petitioner’s healthcare benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Katherine May  
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. On September 15, 2014, an application for healthcare benefits was submitted on behalf of the Petitioner with a 3 month backdate request.

3. On September 16, 2014, the agency issued a Notice of Proof Needed to the Petitioner's representative requesting additional information regarding a checking account. The due date for the information was October 13, 2014. The notice informed the Petitioner that failure to provide the information by the due date could result in denial or delay of benefits.
4. On October 14, 2014, the agency issued a Notice of Decision to the Petitioner's representative informing her that the agency had determined the Petitioner would be eligible for healthcare benefits once a deductible of \$3,613.98 was met for the period of July 1, 2014 – December 31, 2014. The notice also informed the Petitioner of the right to appeal the agency's determination by filing a request for a hearing with the Division of Hearings and Appeals by December 1, 2014.
5. On February 25, 2015, an appeal was filed with the Division of Hearings and Appeals on behalf of the Petitioner.

### DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning Medicaid benefits must be filed within 45 days of the date of the action. Wis. Stats., §49.45(5). A negative action can be the denial of an application or the reduction or termination of an ongoing case. The petitioner's appeal was filed 134 days after the date of the action.

The Petitioner's representative testified that she does not recall receiving the October 14, 2014 notice. It was mailed to the proper address. There is no evidence that the mail was returned or that Petitioner was having problems with mail delivery.

Based on the evidence, I conclude that the appeal was untimely, and no jurisdiction exists for considering the merits of the case.

I note that the agency appears to have properly determined the Petitioner's healthcare benefits. The Petitioner's representative brought some medical bills with her to the hearing that had not been submitted to the agency. The agency representative explained that she must submit the bills and they will be applied to the deductible.

### CONCLUSIONS OF LAW

The appeal is untimely.

**THEREFORE, it is**

**ORDERED**

That 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 Milwaukee,  
Wisconsin, this 5th day of May, 2015

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\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 May 5, 2015.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability