



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/166954

PRELIMINARY RECITALS

Pursuant to a petition filed June 18, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on August 11, 2015, at West Bend, Wisconsin.

The issue for determination is

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: Sean Carlson

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. On April 2, 2015, the Petitioner submitted an application for health care benefits. She reported that a determination of disability is pending. She also reported receiving unemployment benefits

of \$240/week and sick/disability benefits of \$1,395.33/month. In addition, she reported stocks and bonds at a credit union in the amount of \$75,000.

- 3. The agency verified the Petitioner’s unemployment benefits of \$282/week beginning March, 2015.
- 4. On April 7, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her application was denied for BC+ benefits due to income over the program limit. The notice also informed the Petitioner of the right to appeal the agency determination by filing a request for a hearing with the Division of Hearings and appeals by May 26, 2015.
- 5. On June 18, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

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 an agency concerning Medical Assistance must be filed within 45 days of the date of the action. Wis. Stats., § 49.45(5). The petitioner's appeal was filed 68 days after the date of the action. Thus, it was untimely, and no jurisdiction exists for considering the merits of the case.

As dicta, I note that the Petitioner’s income with sick/disability benefits and unemployment compensation benefits clearly exceeds the income limit of \$980/month for the program. Therefore, even if I had jurisdiction over the matter, it appears likely that the conclusion would be that the agency correctly denied the Petitioner’s application.

CONCLUSIONS OF LAW

The Petitioner’s 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 11th day of September, 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 September 11, 2015.

Washington County Department of Social Services
Division of Health Care Access and Accountability