



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

MGE/168356

**PRELIMINARY RECITALS**

Pursuant to a petition filed August 26, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability (DHCAA) to discontinue Medical Assistance (MA) under the Wisconsin Well-Woman (WWMA) program, a telephonic hearing was held on September 22, 2015.

The issue for determination is whether petitioner can be eligible for WWMA when she no meets the nonfinancial eligibility requirements.

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: Pang Xiong, WI Well Woman MA, Supv.  
Division of Health Care Access and Accountability  
1 W. Wilson St.  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner was previously granted eligibility for WWMA.

3. Petitioner completed her yearly renewal for WWMA on August 5, 2015.
4. On August 19, 2015 the WWMA program sent petitioner a notice informing petitioner that her WWMA was denied because she did not meet the nonfinancial program requirements.

### DISCUSSION

WWMA is authorized by Wis. Stat., §49.473. Eligibility criteria are listed in §49.473(2), and they include the following: “(e) The woman requires treatment for breast or cervical cancer or for a precancerous condition of the breast or cervix.” Eligibility for WWMA provides the woman with full MA services. If she is eligible for any other type of MA, the other type takes priority. Wis. Stat., §49.473(2)(a).

Department policies concerning WWMA are found in the *MA Handbook* Ch. 36, available online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. The requirement that the woman require treatment for breast or cervical cancer is also found at *MA Handbook*, §36.3.1. WWMA eligibility must be reviewed yearly. *MA Handbook*, §36.6. In addition, a recipient is required to inform the program of changes that would affect eligibility, including “reporting that she no longer needs treatment for breast or cervical cancer.” *MA Handbook*, §36.5.1. If a woman no longer is treated for breast or cervical cancer, eligibility for the program ends. *Id.*

The primary issue in this case is whether petitioner continues to be eligible for WWMA. The answer is that she is not. She does not have breast or cervical cancer now nor is she being treated for it. No other nonfinancial criteria were evidenced at hearing either.

Petitioner requested that the eligibility be continued as she has other medical conditions (e.g., diabetes, high blood pressure, allergies, vertigo). There is no exception available under WWMA as she requests, however. And, I cannot change the outcome based on fairness. It is the long-standing position of the Division of Hearings & Appeals that the Division’s hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

She still could be eligible for MA but through a different program. Petitioner agreed at hearing that she would apply for other MA programs to see if she is eligible.

### CONCLUSIONS OF LAW

The agency correctly denied petitioner’s WWMA because she did not meet the nonfinancial program requirements.

**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 Milwaukee,  
Wisconsin, this 3rd day of November, 2015

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\sKelly Cochrane  
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 November 3, 2015.

Division of Health Care Access and Accountability  
[DHSEMCAPO@wisconsin.gov](mailto:DHSEMCAPO@wisconsin.gov)