



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB/168997

PRELIMINARY RECITALS

Pursuant to a petition filed September 25, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on October 14, 2015, at Washburn, Wisconsin.

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

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:

Wood County Human Services - WI Rapids
220 Third Avenue South
Suite 4
Wisconsin Rapids, WI 54495

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES #) is a resident of Bayfield County.
2. The agency notified the petitioner on May 11, 2015, and June 17, 2015, that she had to renew her Medicare Premium Assistance benefits by June 30, 2015, or those benefits would end on July 1, 2015. It sent duplicate notices to her authorized representative.

3. The petitioner appealed the agency's decision to end her benefits on September 25, 2015.

DISCUSSION

Qualified Medicare Beneficiary (QMB) benefits pay Medicare premiums, deductibles and co-payments for eligible recipients of SSI. *Medicaid Eligibility Handbook*, § 32.6. The agency notified the petitioner on May 11, 2015, and June 17, 2015, that she had to renew her benefits by June 30, 2015, or those benefits would end on July 1, 2015. It sent duplicate notices to her authorized representative. She had to file any appeal of that denial within 45 days of August 14, 2015, the date the benefits were scheduled to end. Wis. Admin. Code, § HA 3.05(3). She appealed on September 25, 2015.

The petitioner indicated in her appeal that she was confused because she also received Medicaid, and that program's renewal date was two months later. I understand why this would confuse her, but I have no equitable powers that would allow me to consider this factor. She also indicated at the hearing that she does not remember receiving any notices. Her advocate said that mail boxes have been knocked over and mail delivery is inconsistent. This may be true, but the notices were sent to her two times and another two times to her representative. The testimony at the hearing established that all the notices were sent to the proper addresses. It is unlikely that all four did not reach their proper destination. The petitioner has the burden of proving that none of the four notices reached the proper person. She has not. Her appeal is late, and the Division of Hearings and Appeals has no authority to consider it. Therefore, I must uphold the agency's decision to end her benefits on July 1, 2015.

CONCLUSIONS OF LAW

The Division of Hearings and Appeals cannot consider the petitioner's appeal because it was not filed within 45 days of the date her benefits ended.

THEREFORE, it is

ORDERED

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

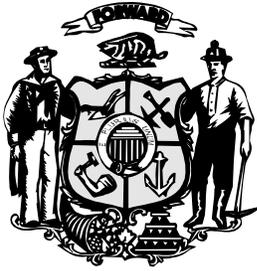
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 Madison,
Wisconsin, this 14th day of October, 2015

\sMichael D. O'Brien
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 October 14, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability