



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/169039

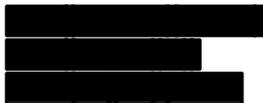
PRELIMINARY RECITALS

Pursuant to a petition filed September 26, 2015, under Wis. Stat., §49.45(5)(a), to review a decision by the La Crosse County Dept. of Human Services in regard to Medical Assistance (MA), a hearing was held on November 4, 2015, by telephone.

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

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: 
La Crosse County Dept. of Human Services
P.O. Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of La Crosse County.
2. Petitioner received BadgerCare Plus (BC+) in the spring, 2015. She was scheduled to complete a review by the end of April, 2015. The agency sent petitioner a notice dated April 17, 2015 telling her that her BC+ would end May 1 if she did not complete the renewal.
3. Petitioner filed the renewal on April 24, 2015. The agency sent a notice of proof asking for verification of her student aid, as petitioner is a student at . Petitioner did not return the verification.

4. On May 8, 2015, the agency sent petitioner a notice telling her that BC+ was open effective June 1, 2015, but that it was denied for May, 2015 because petitioner did not verify her student aid. The agency opened BC+ June 1 because the worker knew that the spring school semester ended in May, and thus student aid would not affect BC+ for June. The May 8 notice informed petitioner that she could appeal with a deadline of June 23, 2015.
5. Petitioner filed this appeal concerning May, 2015 BC+ on September 26, 2015.

DISCUSSION

An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a); Wis. Admin. Code, §HA 3.05(3)(a). Language concerning the right to appeal and the time limit is included on all department notices. An MA appeal must be made in writing; it cannot be made orally unless it is then reduced to writing. Wis. Admin. Code, §HA 3.05(2)(a). The date of filing is the date the written appeal is received by the agency or the postmark date, whichever is earlier. Admin. Code, §HA 3.05(3)(c). If an appeal is untimely the Division of Hearings and Appeals lacks jurisdiction to consider the petitioner's position on the merits.

Petitioner filed this appeal over four months after the May 8 notice telling her that BC+ for May, 2015 was denied. The appeal is untimely, and this office does not have authority to rule on the merits.

Mr. █████ explained to petitioner that the agency still could backdate BC+ to May if she provides the student aid information for the second semester, 2015, and if her monthly income is low enough for the backdate. That action would be separate from this appeal, however.

CONCLUSIONS OF LAW

Petitioner's appeal of the denial of May, 2015 BC+ was untimely.

THEREFORE, it is ORDERED

That the petition for review 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 5th day of November, 2015

\sBrian C. Schneider
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 5, 2015.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability