



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MAP/169214

PRELIMINARY RECITALS

Pursuant to a petition filed October 05, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on November 03, 2015, at Milwaukee, 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: Pang Thao-Xiong, Income Maintenance Specialist Advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. On July 15, 2015, the Petitioner contacted the agency to report that he was going to start a new job. (Exhibit 6, pg. 2)
3. On August 6, 2015, the agency received the Petitioner’s income verification. (Exhibit 2)

4. August 11, 2015, the agency sent the Petitioner a notice, indicating that as of August 1, 2015, he would need to pay a MAPP premium of \$300 per month. (Exhibit 2; Exhibit 5, pgs. 25-30).
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on October 5, 2015. (Exhibit 1)

DISCUSSION

The Petitioner filed an appeal to contest the imposition of the \$300 premium in August 2015 and October 2015. However, a hearing officer can only hear cases on the merits 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 medical assistance must be filed within 45 days of the date of the action. Wisconsin Stat. §49.45(5); Income Maintenance Manual § 3.3.1. A negative action can be the denial of an application, the reduction of benefits, the termination of an ongoing case, or as in this case, the increase or imposition of a premium.

In the case at hand, the date of action was August 11, 2015, the date the agency notified the Petitioner of the \$300 monthly premium. Thus, the appeal needed to be filed by September 25, 2015. The Petitioner did not file his appeal until October 5, 2015 - 55 days after the date of the action. Thus, it was untimely, and no jurisdiction exists for considering the merits of the case.

CONCLUSIONS OF LAW

Petitioner’s appeal is untimely.

THEREFORE, it is **ORDERED**

The petition 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 9th day of December, 2015

\sMayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 9, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability