



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MAP/170063

PRELIMINARY RECITALS

Pursuant to a petition filed November 09, 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 – Medicaid Purchase Plan (MAPP), a hearing was held on December 08, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the respondent correctly discontinued petitioner’s MAPP benefits effective December 1, 2015.

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: [Redacted]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County who is receiving MAPP benefits.
2. On October 23, 2015, petitioner completed a renewal for MAPP, and the respondent pended approval of the renewal for employment verification from petitioner’s employer.

3. On October 26, 2015, the respondent mailed a verification request, with a due date of November 4, 2015.
4. On November 3, 2015, a second verification request was sent, with a due date of November 12, 2015.
5. The respondent mailed a notice to petitioner on November 3, 2015, indicating that his MAPP benefits would end on December 1, 2015, due to failure to verify his employment.
6. On November 4, 2015, the respondent sent a third verification request, again repeating the due date of November 12, 2015.
7. On November 9, 2015, petitioner filed an appeal with the Division of Hearings & Appeals.

DISCUSSION

The Medicaid Purchase Plan (MAP) is a sub-program of Medical Assistance that allows a disabled person to engage in some income producing work while remaining eligible for MA, at higher income and asset limits.

The Medicaid Eligibility Handbook (MEH) provides instructions to the county agencies when processing applications or reviews. The MA Handbook indicates that an applicant must be at least 18-years-old, be determined disabled, presumptively disabled, or MAPP disabled by the Disability Determination Bureau (DDB), and **be working in a paid position** or participating in a Health and Employment Counseling (HEC) program. MEH § 26.3.1. (Emphasis added). The county agency is required to give written notice of the action concerning MA to petitioner and his or her representative of record. 42 C.F.R. § 431.211.

In a Fair Hearing concerning the propriety of a discontinuation of benefits, such as this, the county agency has the burden of proof to establish that the action taken by the county was proper. Petitioner must then rebut the agency's case and establish facts sufficient to overcome the evidence of correct action by the agency in determining the denial action was required.

The agency properly pursued verification of petitioner's employment, and supplied petitioner with ample notice of the need for employment verification. Proper notice was also provided concerning the December 1, 2015, discontinuance of petitioner's MAPP benefits. As of the date of hearing, petitioner had not supplied the required employer verification.

The petitioner did not provide any testimony establishing an error by the respondent in discontinuing his benefits. In fact, at hearing the respondent testified that if petitioner supplied the employment verification demonstrating that he is, in fact, working, his MAPP benefits would be reinstated. Petitioner was encouraged to obtain the employment verification and submit that as soon as possible.

Petitioner argued that the verification requirement constitutes a violation of his civil rights. He did not present any verifiable information that would shed any light on this claim. In any event, an Administrative Law Judge's jurisdiction is limited. I note that it is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. 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. I am unable to discern an error on the part of the respondent in discontinuing petitioner's MAPP benefits due to petitioner's failure to provide verification of employment.

CONCLUSIONS OF LAW

Respondent correctly discontinued petitioner's MAPP benefits effective December 1, 2015, due to his failure to provide verification of employment.

THEREFORE, it is

ORDERED

That petitioner's appeal 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 22nd day of December, 2015

\sPeter McCombs
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 December 22, 2015.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability