



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

WFC/171791

PRELIMINARY RECITALS

Pursuant to a petition filed January 29, 2016, under Wis. Admin. Code §HA 3.03 (1);, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on March 10, 2016, at Madison, Wisconsin.

The issue for determination is whether the respondent correctly denied a reimbursement request pertaining to services provided to petitioner.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED]
Division of Health Care Access and Accountability
Madison, WI

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner died on November 23, 2015.

3. On or about December 15, 2015, [REDACTED] submitted a request to respondent seeking reimbursement of petitioner's funeral expenses. Exhibit 2.
4. On or about December 21, 2015, the respondent sent JFC a request for verification. Exhibit 3. On or about December 30, 2016, the respondent received what it considered to be an incomplete verification submission, and sent a second verification request dated January 4, 2016, with a deadline for response of January 14, 2016. Exhibit 4.
5. On or about January 15, 2016, the funeral home's request for payment was denied due to failure to provide verification. The notice stated that an appeal could be filed with the Division of Hearings and Appeals but did not mandate a time limit for appealing. Exhibit 5.

DISCUSSION

Wisconsin law requires county agencies to pay a portion of the cemetery expenses and funeral and burial expenses of indigent recipients of AFDC, W-2 benefits, Supplemental Security Income (SSI), or medical assistance under certain circumstances. Wis. Stat., §49.785(1). If the total cemetery expenses do not exceed \$3,500 the county agency pays the actual cost of those expenses up to \$1,000; if the total funeral and burial expenses do not exceed \$3,500, the county agency pays the actual cost of those expenses up to \$1,500. In addition, if there are unusual circumstances in the funeral that give rise to additional expenses not within the allowable costs, the department may reimburse the county for those additional expenses. Wis. Stat., §49.785(2).

The respondent denied JFC's reimbursement request regarding services provided to the petitioner. The program policy is found in the WFCAP Manual, available over the internet at <http://www.emhandbooks.wi.gov/wfcap/fcap.htm>. Specific to the instant matter, the Manual provides:

Requests can be denied for reasons including, but not limited to, the following (also in Chapter 5):

1. Request is received more than one year after the month of death
2. Insufficient information to determine eligibility
3. Decedent is not eligible.
4. Decedent information is incomplete.
5. Date of Service is a date in the future.
6. Provider information is incomplete.
7. Type of service provider is not indicated.
8. Incorrect form was submitted (outdated version, etc)
9. Request was not submitted by a funeral home, cemetery or crematory.
10. Funeral expenses are claimed, but the "Statement of Funeral Goods and Services Selected" is not submitted.
11. "Statement of Funeral Goods and Services Selected" indicates *cash advances*, but adequate verification is not submitted.
12. Cemetery/crematory expenses are claimed, but an itemized statement of goods and services is not attached.
13. Reimbursement is requested for funeral charges but the funeral home representative and the executor or family representative have not signed and dated the form.
14. Reimbursement is requested by a cemetery/crematory, but the cemetery or crematory representative and the executor or family representative have not signed and dated the form.
15. Total funeral charges cannot be determined.
16. Total cemetery/crematory charges cannot be determined.

17. Total funeral charges exceed cap.
18. Total cemetery/crematory charges exceed cap.
19. CARES indicates that burial assets were declared when the deceased applied for Medicaid, and those assets are not indicated on the reimbursement request

If the reason for denial is for an incomplete field, insufficient information, or lack of verification for a cash advance, send the provider a notice that there is a fifteen day grace period in which to correct the deficiency.

Do not deny a request for failure to provide information until the 16th day after sending a notice of deficiency.

WFCAP Manual §2.9.

While JFC's representative acknowledged at hearing that his initial verification submission was not complete, he testified that he has never before been required to provide each receipt, as the respondent requested here. He also argued the failure to provide the requested verification by the January 14, 2016, deadline was an inadvertent error caused by a sharp increase in business during that time period.

The respondent maintained that it followed the denial rules in making its determination here. Specifically, the respondent was authorized to request the appropriate verification documentation, and JFC did not timely provide such verification. However, I have reviewed the record and have been unable to find that the respondent fully complied with the Manual guidelines. Where the denial is due to incomplete information or insufficient verification, the respondent is required to send petitioner a notice of a 15 day grace period. The Manual further instructs that the denial should not occur until 16 days following the notice of deficiency. See, WFCAP Manual §2.9.

The respondent requested verification on December 21, 2015, and indicated a due date of January 5, 2016. JFC timely responded on December 30, 2015, but the response was deemed incomplete. See, Exhibit 4. Another verification request was sent by respondent on January 4, 2016, and this indicated a due date of January 14, 2016. When no verification was received by January 14, 2016, the respondent issued its denial on January 15, 2016. The plain language of the Manual directs that the petitioner should have received a notice of a 15 day grace period, since the denial was based upon incomplete information or insufficient verification. This did not happen. I note that neither the second verification request, nor the denial letter included reference to a 15 day grace period. Furthermore, the denial was issued January 15, 2016, which is not 16 days following notice of the deficiency (arguably, January 4, 2016¹). This matter shall be remanded to the respondent to allow JFC a 15 day period within which to supply the requested verifications.

CONCLUSIONS OF LAW

The respondent incorrectly denied the JFC reimbursement request because it failed to provide a 15 day grace period, and failed to issue the denial not earlier than 16 days following a notice of deficiency.

THEREFORE, it is

ORDERED

That this matter shall be remanded to the respondent to issue a notice of deficiency to JFC, and allow JFC a 15 day grace period within which JFC may address the identified deficiency(ies) in its reimbursement

¹ I also note that the January 4, 2016 verification request correspondence is not entitled "Notice of Deficiency," and it does not identify the fact that it actually constitutes the second verification request sent to JFC. It also does not identify what was already received from JFC, or what specifically was lacking from the original verification submission

submission concerning the petitioner. All actions required by this Order shall be completed within 10 days following issuance of this Decision.

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.

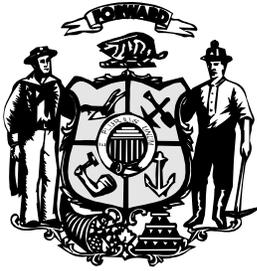
APPEAL TO COURT

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 27th day of April, 2016

\sPeter McCombs
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 April 27, 2016.

Division of Health Care Access and Accountability
Wisconsin Funeral and Cemetery Aids Program - DHS