



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MQB- 173790

PRELIMINARY RECITALS

On April 19, 2016, the above petitioner filed a hearing request under , to challenge a decision by the Waukesha County Health and Human Services regarding Medical Assistance. The hearing was held on June 2, 2016, by telephone, from Madison, Wisconsin.

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

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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



Waukesha County Health and Human
Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.

2. Petitioner was a recipient of Medicare Premium Assistance in January of 2015. On January 20, 2015, the respondent requested that petitioner verify his savings and checking account assets. Verification was due January 29, 2015. Exhibit 2.
3. On January 30, 2015, the respondent sent petitioner notice that it had not received the requested verification and that his Medicare Premium Assistance benefits would end effective March 1, 2015. The notice indicated that petitioner could appeal this determination, and the deadline to appeal was April 16, 2015. Exhibit 3.
4. On March 23, 2015, petitioner's application for Medicare Premium Assistance was denied by the respondent, purportedly due, in part, to the petitioner's failure to verify his assets. The notice indicated that petitioner could appeal this determination, and the deadline to appeal was May 11, 2015. See, Exhibit 4.
5. On May 1, 2015, petitioner's application for Medicare Premium Assistance was denied by the respondent, purportedly due, in part, to the petitioner's failure to verify his assets. The notice indicated that petitioner could appeal this determination, and the deadline to appeal was June 19, 2015. See, Exhibit 5.
6. On June 27, 2015, petitioner's application for Medicare Premium Assistance was denied by the respondent, purportedly due, in part, to the petitioner's failure to verify his assets. The notice indicated that petitioner could appeal this determination, and the deadline to appeal was August 14, 2015. See, Exhibit 6.
7. Petitioner filed his appeal via US Mail; the post-mark date of the appeal was April 19, 2016.

DISCUSSION

Qualified Medicare Beneficiary (QMB) benefits pay Medicare premiums, deductibles and co-payments for eligible recipients of SSI. Medicaid Eligibility Handbook, § 32.6. The petitioner was supposed to complete a review of his benefits early in 2015, but the respondent indicated that it did not receive proper verifications. The respondent notified petitioner of the lacking verification response on numerous occasions, and terminated petitioner's enrollment in the program. Additional applications were denied due to the failure to receive verifications. Recipients must appeal the negative actions within 45 days of the notice or the date that the action takes effect, whichever is later. Wis. Admin. Code, § HA 3.05(3). If an appeal is late, the Division of Hearings and Appeals loses its legal authority to consider the matter. The petitioner never filed an appeal until April 19, 2016.

The appeal filing date is considerably more than 45 days past the time she received the last of the notices sent to petitioner regarding this ongoing matter. Based upon this, I find that his appeal is late, and I have no jurisdiction to consider it.

CONCLUSIONS OF LAW

There is no jurisdiction to consider the petitioner's appeal because it is untimely.

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, **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).

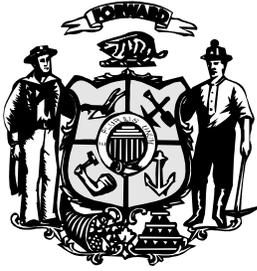
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 11th day of July, 2016

\s _____
Peter McCombs
Administrative Law Judge
Division of Hearings and Appeals

FH

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State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on July 11, 2016.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability