



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS- 174487

PRELIMINARY RECITALS

On May 18, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Chippewa County Department of Human Services regarding Medical Assistance (MA). The hearing was held on July 12, 2016, at Chippewa Falls, 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:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI53703

By: [REDACTED]
Chippewa County Department of
Human Services
711 N. Bridge Street
Chippewa Falls, WI 54729-1877

ADMINISTRATIVE LAW JUDGE:

Michael O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Chippewa County.
2. The department denied the petitioner's request for medical assistance on March 31, 2016. That denial informed him that any appeal must be submitted by May 16, 2016.
3. The petitioner appealed the denial on May 18, 2016.

DISCUSSION

Medical assistance applicants must appeal negative decisions within 45 days. Wis. Admin. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals cannot consider it and must dismiss it. The petitioner applied for medical assistance on February 29, 2016, requesting benefits retroactive to November 30, 2016. The county agency denied his application on March 31, 2016, and correctly told him he had until May 16, 2016, to appeal. He did not appeal until May 18, 2016.

He testified that he did not receive his mail from the county agency. When it was pointed out that a lot of notices had been sent to him and none of it was returned to the county agency he equivocated and said that he did not receive all of his mail from the agency. I assume he received the notice telling him when to appeal because it was not returned to the agency and he did file an appeal. Based upon this, I must find that his appeal is late and dismiss his claim. If he still wishes to receive medical assistance, he must reapply.

CONCLUSIONS OF LAW

The Division of Hearings and Appeals has no authority to consider the petitioner's appeal because it is late.

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).

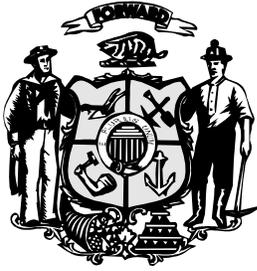
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 13th day of July, 2016

\s _____
Michael O'Brien
Administrative Law Judge
Division of Hearings and Appeals

FH

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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 July 13, 2016.

Chippewa County Department of Human Services
Division of Health Care Access and Accountability