



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MQB - 175143

PRELIMINARY RECITALS

Pursuant to a petition filed on June 23, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on July 26, 2016, by telephone.

The issue for determination is whether petitioner’s appeal is 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, WI 53703

By: 
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. The petitioner applied for medical assistance through Medicare Premium Assistance (QMB). Petitioner’s QMB benefits closed effective April 1, 2016, per respondent’s About Your Benefits letter dated March 18, 2016.

3. The petitioner appealed on June 23, 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 respondent asked petitioner for certain verification regarding her eligibility, and when she did not timely provide the verification, it closed her case effective April 1, 2016. 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 did not an appeal until June 23, 2016.

The notice regarding the closing of petitioner's MAPP benefits included specific appeal information, including a 45-day deadline of May 17, 2016, within which petitioner could request a fair hearing.

When an appeal is late, the Division of Hearings and Appeals loses its legal authority to consider it. There is no jurisdiction to consider the disenrollment as the notice was provided writing and the appeal was filed 84 days later. The record reflects that there was an adverse action, a notice explaining why her benefits were ending and how she could appeal, and a failure to appeal within 45 days.

Petitioner's failure to appeal within the required 45-day period following adverse action deprives the Division of Hearings and Appeals of jurisdiction over this matter.

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 26th day of August, 2016

\s _____
Peter 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 August 26, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability