



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MSI - 175910

PRELIMINARY RECITALS

Pursuant to a petition filed on July 28, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability regarding discontinuance of Medical Assistance - SSI, a hearing was held on August 31, 2016, by telephone.

The issue for determination is whether petitioner's appeal of the discontinuance of Medical Assistance – SSI was ripe for review.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] |
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED] (written submission)

ADMINISTRATIVE LAW JUDGE:

Kristin P. Fredrick
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. The petitioner was a recipient of Medical Assistance (Medicaid) based upon her eligibility for federal and state SSI.

3. On July 19, 2016, the petitioner received notice that her SSI benefits would end because federal SSI ended on July 31, 2016 as a result of the cessation of her disability.
4. The July 19, 2016 notice from the Division of Health Care Access and Accountability informed the petitioner that her Medicaid benefits were extended until August 31, 2016 and a review would be made as to whether her eligibility for Medicaid would continue.
5. Petitioner filed an appeal with regard to her SSI and Medical Assistance benefits on August 1, 2016. At that time, no action had yet been taken by the local agency with regard to her Medicaid.

DISCUSSION

Anyone who receives SSI benefits is entitled to receive medical assistance as “categorically needy” under Wis. Stat. § 49.46(1)(a)4. Petitioner may also be eligible for medical assistance under a different statutory section, which is determined by the local county agency. Petitioner would have the right to appeal an action taken by the local administrative agency, including a determination of eligibility:

Any person whose application for medical assistance is denied or is not acted upon promptly or who believes that the payments made in the person's behalf have not been properly determined or that his or her eligibility has not been properly determined may file an appeal with the department pursuant to par. (b). Review is unavailable if the decision or failure to act arose more than 45 days before submission of the petition for a hearing.

Wis. Stat. §49.45(5)(a).

However, a controversy is not considered ripe until the agency's decision has been formalized and the challenging parties have felt its effects. The government action must have produced a direct threat. If an appeal is brought on an anticipated negative action resulting from a decision not yet made, the case is not ripe for consideration. Administrative Law Judges only have authority to resolve actual disputes, not hypothetical ones.

In the present situation, petitioner’s medical assistance (Medicaid) was continued and extended until August 31, 2016 to allow the agency an opportunity to review whether she continued to be eligible. At the time the petitioner filed this appeal, no negative action resulting from a decision of an administrative agency had occurred yet with respect to her medical assistance benefits. Accordingly, the petitioner’s appeal is not ripe as she must wait until the local agency makes a decision with respect to her eligibility for continued Medicaid benefits.

Should the county agency determine that petitioner does not qualify for additional medical assistance benefits, she may appeal that decision at that time by requesting a hearing within forty-five (45) days from that decision.

CONCLUSIONS OF LAW

Petitioner’s appeal to review a decision with regard to her Medical Assistance (Medicaid) benefits is not ripe as no negative action resulting from a decision of an administrative agency had been taken as of the date of her appeal.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same 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, **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 2nd day of September, 2016

\s _____
Kristin P. Fredrick
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 September 2, 2016.

Division of Health Care Access and Accountability
State SSI