



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MSC - 204650

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 8, 2022, under Wis. Stat., §49.45(5), to review a decision by the Division of Medicaid Services (DMS) to deny SeniorCare (SC), a hearing was held on April 27, 2022, by telephone.

The issue for determination is whether petitioner is an ineligible alien for SC purposes.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Sara Warwick  
Division of Medicaid Services  
PO Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a 65-year-old resident of Dane County.
2. Petitioner was born in [REDACTED] and emigrated to the United States from [REDACTED]. Her entry date on her Permanent Residence Card is listed as February 4, 2021. Her residency status is "[REDACTED]."

3. Petitioner applied for SC on January 31, 2022, along with her husband, who is a U.S. citizen. SC was denied for petitioner by a notice dated February 28, 2022 because she has not been a U.S. resident for five years.

### DISCUSSION

SC is a Wisconsin program providing prescription drug assistance for residents ages 65 and over. It is implemented under the Wisconsin Administrative Code, Chapter DS 109.

To be eligible, a person must be a Wisconsin resident, at least 65 years old, not eligible for regular Medical Assistance (MA), and be a U.S. national or an alien legally residing in the U.S. whose status qualifies her for MA. Wis. Admin. Code §DHS 109.11(1). Since 1996, a resident alien has not been eligible for public assistance benefits for five years after the date of entry into this country. See 8 U.S.C. §1613; note that this prohibition is a federal law, not a state policy. There are exceptions, and they are listed in the MA Handbook, §7.3.3.1, which is attached to the case summary provided by Ms. Warwick prior to the hearing. Petitioner does not meet any of the exceptions to the five-year limitation.

Her Permanent Residence card lists her status as "█." The █ status is a conditional one for an alien whose record of admission is created upon the conclusion of a █ after entering as a █. The status fits petitioner's situation. █ (the entry date on the Residency card is based upon the date of application, not necessarily the date of actual arrival in the country). Crucially, her status is not as a refugee, asylee, or other specific status that would make her immediately eligible for the program.

I must conclude, therefore, that the denial of SC for petitioner was correct.

### CONCLUSIONS OF LAW

Petitioner is ineligible for SC because she is a permanent alien resident who has not been in this country for five years.

**THEREFORE, it is**

**ORDERED**

That the petition for review 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, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, 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

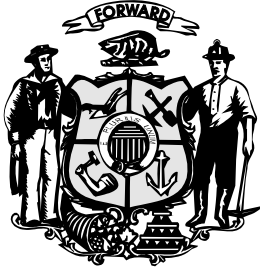
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 3rd day of May, 2022



\s \_\_\_\_\_  
Brian C. Schneider  
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 May 3, 2022.

Division of Medicaid Services  
Senior Care