



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 198010

PRELIMINARY RECITALS

Pursuant to a petition filed on February 19, 2020, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Columbia County Health & Human Services Department (“the agency”) regarding Medical Assistance (MA), a hearing was held on March 25, 2020, by telephone.

The issue for determination is whether Petitioner’s Medical Assistance was correctly terminated effective August 1, 2019.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED]
Columbia County Health & Human Services
2652 Murphy Rd
PO Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeal

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) has resided in a skilled nursing facility (SNF) in Columbia County since June 14, 2019.
2. Prior to Petitioner's admission into a SNF, she resided in a community based residential facility (CBRF) and received Medical Assistance home and community based long term care waiver services ("Community Waivers") through the Family Care Program.
3. A staff member from the local aging and disability resource center (ADRC) advised Petitioner's spouse that Petitioner could disenroll from Family Care and be automatically transferred into Institutional Medical Assistance. Accordingly, Petitioner's spouse signed a Family Care disenrollment form on June 14, 2019. On that form, he indicated that the reason for disenrollment was "choosing nursing home or hospice services."
4. Petitioner's Medical Assistance through Community Waivers ended effective August 1, 2019.
5. The income maintenance agency was notified that Petitioner had moved into a SNF but, in error, did not process her eligibility for Institutional Medical Assistance.
6. In December 2019, the SNF advised Petitioner's spouse that the State of Wisconsin had made no payments on Petitioner's behalf. He subsequently contacted the agency and discovered that his spouse's Institutional Medical Assistance eligibility had never been established.
7. In February 2019, Petitioner's spouse filed an application for Institutional Medical Assistance.
8. On March 23, 2020, the agency determined that Petitioner was eligible for Institutional Medical Assistance and backdated her coverage three months prior to the month of application. As a result, Petitioner's Institutional MA has been approved as of November 1, 2019 and continuing.
9. Petitioner filed an appeal and seeks Institutional MA coverage for the time period July 1, 2019 through October 31, 2019.

DISCUSSION

The facts here are undisputed. The agency representative, who offered knowledgeable testimony at the hearing, plainly stated that the agency erred by not processing Petitioner's Institutional MA eligibility when the agency received notification of her disenrollment from Family Care and her admission into a skilled nursing facility. The agency worker also explained that had the correct procedures been followed, a worker would have added an Institutions MA screen to Petitioner's case in the state's case management database and checked for third party coverage. In addition, she stated that the agency would not have requested that Petitioner submit verification of assets since asset limits and rules are identical for Community Waivers and Institutional MA. The agency worker's testimony reflects the following written MA policy:

Medicaid Eligibility

Community waivers enable elderly, blind, or disabled people to live in community settings rather than in state institutions or nursing homes. They allow Medicaid to pay for services and supports permitting a person to remain in a community setting that normally are not covered by Medicaid. These programs include Family Care, Family Care Partnership, PACE, and IRIS.

[Income maintenance agency] workers are responsible for determining Medicaid eligibility as well as cost share amounts, if applicable. ADRC staff and IRIS consultants are responsible for determining the person's eligibility for enrollment in the specific community waiver program.

If a member disenrolls from the managed LTC program for any reason and does not enroll in IRIS or a managed LTC program, his or her Medicaid eligibility must be tested under non-HCBW rules. Eligibility for HCBW would end following adverse action logic once the IM worker has been notified by the ADRC that the member has disenrolled from the managed LTC program or IRIS.

[Emphasis added.] *Medicaid Eligibility Handbook* §28.1.

Because the agency's actions in this case did not comply with this policy, the matter will be remanded to the agency with instructions to backdate Petitioner's Institutional MA for the time period August 1, 2019 through October 31, 2019, if Petitioner was otherwise eligible throughout that time period.

CONCLUSIONS OF LAW

Petitioner's Medical Assistance eligibility was not properly terminated effective August 1, 2019 because she should have been transferred to Institutional MA upon disenrolling from Community Waivers.

THEREFORE, it is

ORDERED

That the matter is remanded to the agency with instructions to backdate Petitioner's Institutional MA for the time period August 1, 2019 through October 31, 2019 if she was otherwise eligible throughout that time period and to send Petitioner confirmation of its action. The agency shall comply with these instructions within ten days of the date of this order.

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, 5th 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

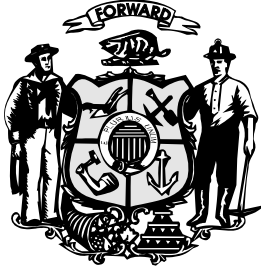
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 27th day of March, 2020

\s

Teresa A. Perez
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 March 27, 2020.

Columbia County Health & Human Services
Division of Health Care Access and Accountability