



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 207256

PRELIMINARY RECITALS

Pursuant to a petition filed on January 3, 2023, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services regarding Medical Assistance (MA), a hearing was held on March 16, 2023, by telephone.

The issue for determination is whether the agency correctly denied Petitioner's MA application on December 5, 2022 due to lack of verification received.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jennifer Hanson

Outagamie County Department of Human Services
320 S Walnut St
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Nicole Bjork
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) was a resident of Outagamie County.

2. On October 24, 2022, Petitioner submitted an application for Medical Assistance. Petitioner reported on the application that her spouse, ■■■, had sold some shares of stocks in June and July of 2022.
3. On November 2, 2022, the agency sent Petitioner a notice requesting verification regarding the closure of the stocks, the amount received for the stocks, and how the proceeds of the sale were used.
4. On December 8, 2022, the agency sent Petitioner a notice denying the application because the agency had not received the requested verification.
5. On December 15, 2022, the agency received a letter from Petitioner's bank regarding the amount the shares sold for. However, that letter pertained to shares that were sold on March 31, 2022. Petitioner's application noted shares were sold in June and July of 2022.
6. Petitioner passed away in August 2022. However, her spouse, ■■■, testified at hearing on her behalf. ■■■ testified that he tried unsuccessfully for months to obtain requested information from the bank. ■■■ stated that he made diligent attempts to submit and resubmit information and, due to the unsuccessful communications with the bank, information was delayed. ■■■ is seeking to have coverage for the Petitioner backdated to July 1, 2022.

DISCUSSION

Medicaid applicants are required to verify all countable assets. MEH § 20.3.5. Verification can be achieved through various methods. MEH § 20.1.2, 20.1.4 Para. 3., 20.2.

The agency here explained that Petitioner's application for MA noted that her spouse sold shares of stock in June and July of 2022. The agency therefore requested information regarding the sale of the stock, including the amount sold and an explanation regarding how the proceeds of the sale were spent. The verification was due November 23, 2022. However, the agency hadn't received the requested verification by December 8, 2022. Thus, the agency sent a notice to Petitioner denying the MA application for failure to provide the requested verification.

Because the agency sent a proper request for verification of the stocks sold and because it is undisputed that Petitioner did not provide that, the agency properly denied the application based on a failure to provide required verification.

Petitioner's spouse is seeking an approval of MA and for that MA to be backdated to July 1, 2022. MA rules do allow for backdating eligibility up to three months. Medicaid Eligibility Handbook, § 2.8.2. However, backdating cannot even occur until an application is approved. And, in this case, it is established that the application was not approved due to failure to provide the requested verification. Even if the application had been approved in December 2022, I could not backdate coverage more than the three months allowed under the rules.

Petitioner's spouse raised issues at hearing regarding the difficulties that he had obtaining the requested verification. Petitioner's spouse noted that he had attempted to apply for MA multiple times, but the application was "always missing something." Petitioner noted that he diligently attempted to complete the application. While I am certainly sympathetic to his situation, it is the long-standing policy of the Division of Hearings & Appeals that the Department's assigned administrative law judges do not possess

equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). As such, I cannot issue a decision couched in terms of fairness. This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, even if Petitioner's application had been approved, she is not eligible for institutional MA backdating more than three months prior to the approval date; no exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner's application for failure to provide requested verification.

THEREFORE, it is ORDERED

That this 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, 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.

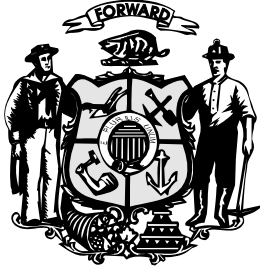
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 12th day of April, 2023

\s _____
Nicole Bjork
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 April 12, 2023.

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