



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MQB - 209568

PRELIMINARY RECITALS

Pursuant to a petition filed on July 26, 2023, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock Cty Human Services regarding Medical Assistance (MA), a hearing was held on August 16, 2023, by telephone.

The issue for determination is whether

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: Adam Voss

Rock Cty Human Services
1900 Center Avenue
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County who had received MAPP, SLMB+, and FS benefits.
2. On March 6, 2023, a notice was issued to the petitioner titled, “You Need to Renew Your BadgerCare Plus or Medicaid by April 30, 2024.” The notice indicated that the petitioner was a member of Medicaid and had to renew benefits every 12 months, but because of COVID-19 temporary federal policies have not asked him to renew since 2020. He was further informed those temporary federal policies were ending and that his new renewal was April 30, 2024. He was also informed his benefits would continue until at least that date, and that he did not need to take action at this time. He was further informed a renewal packet would be mailed a month prior to his renewal due date, and to only take action to renew once he received the renewal packet. Exhibit 2.
3. The agency indicated that the petitioner submitted two health care renewals through ACCESS on April 5, 2023. Exhibits 4 and 6. On April 13, 2023, the agency attempted to contact the petitioner by telephone two different times to advise him of the consequences of an early health care renewal. The agency was not able to get in touch with the petitioner on either occasion. As such, the agency started processing the renewal. The case was then pended for verification of assets and self-employment income. Exhibit 6.
4. On May 23, 2023, the petitioner called to complete his FS interview. Exhibit 6.
5. On June 16, 2023, an About Your Benefits notice was issued to the petitioner. He was informed he was enrolled in MAPP but that his SLMB+ would be ending as of July 1, 2023, due to income exceeding program limits. He was also informed that he qualified for FS benefits. Exhibit 5.
6. The agency found that the petitioner had gross unearned income of \$1,701.04. It was found he had counted income of \$1,681.04 after a \$20 disregard was applied. The agency found the income limit for the SLMB+ was \$1,640.25. Exhibits 4 and 5.
7. The petitioner timely appealed the termination of his SLMB+. Exhibit 1.

DISCUSSION

The income limit for SLMB+ is 135% of the FPL. MA Handbook, §32.4.2. At the time at issue here, 135% of the FPL was \$1,640.25. MA Handbook, §39.5. The agency determined that the petitioner had income of \$1,681.04 as of July 1, 2023. As such, it terminated his SLMB+ benefits for exceeding program income limits.

At hearing, the petitioner did not dispute the agency’s calculations or its finding that his income exceeded program limits for SLMB+ as of July 1, 2023. His position was that his benefits for health care were incorrectly reviewed prior to his renewal scheduled for April 30, 2024. Under the temporary federal COVID-19 policies, as implemented by the state, his health care benefits would continue until at least April 30, 2024, even if his income exceeded program limits. See DMS Operations Memo 23-08 (for the policy) and Finding of Fact 2 (for the petitioner’s health care renewal date under that policy). The agency countered that petitioner’s eligibility was correctly determined as of July 1, 2023, as he submitted an early health care renewal. Specifically, that he submitted the renewal on April 5, 2023. Upon doing so, the

petitioner was found ineligible for the program, and the agency was required to terminate benefits as of July 1, 2023.

Under the FFCRA, states were granted increased federal funding to maintain MA enrollment for members enrolled on or after March 18, 2020, unless an exception was met (such as the member died, moved out of state, or asked to be disenrolled). DMS Operations Memo 23-08. This allowed certain health care members (including MAPP and Medicare Savings Program) to maintain continuous health care eligibility until their next renewal. Id. The renewal was placed on hold until the Consolidated Appropriations Act of 2023 severed the connection of the continuous eligibility and the COVID-19 public health emergency. Id. Thus, the members health care renewal would be scheduled by the Department sometime during a 12 month unwinding period between June 2023 and May 2024. Id. In this case, the petitioner was informed his health care renewal was scheduled for April 30, 2024. See Finding of Fact 2 above.

Pursuant to DMS Operations Memo 23-08:

If a member wants to voluntarily complete an early renewal, the IM agency must honor this request, but once a renewal is started, the renewal date cannot be change. IM agencies **must inform** members that their eligibility may be impacted by doing an early renewal.

(**emphasis** added).

In this case, the record indicates the agency made an attempt to notify the petitioner that his eligibility could be impacted by doing an early renewal. The attempt was the call to his telephone number on two occasions on the same date. However, I do not find that attempt sufficient to meet the “must inform members” requirement set forth in the Operations Memo above. There is no indication that a voice message was left, a written notice was issued, or any other verbal communication occurred that informed the petitioner his eligibility could be impacted by doing an early health care renewal.

Moreover, the petitioner disputed that he even submitted an early health care renewal. He claimed the documentation submitted was solely for FS. The agency did not provide a copy of the renewal documentation submitted to the agency or any audio recordings of telephone communications the petitioner has had with the agency regarding the processing of that documentation.

Based on the record, I find that the agency has failed to demonstrate that it properly processed an early health care renewal under the COVID-19 unwinding requirements set forth in DMS Operations Memo 23-08. As such, this matter is being remanded to the agency to rescind the health care renewal it processed and to reinstate SLMB+ benefits.

CONCLUSIONS OF LAW

1. The agency failed to meet its burden to demonstrate that it properly processed an early health care renewal for the petitioner pursuant to the COVID-19 unwinding requirements of DMS Operations Memo 23-08.
2. The petitioner qualifies for continuous eligibility for SLMB+ benefits under the temporary COVID-19 policies in place until at least his scheduled renewal of April 30, 2024, unless an exception is demonstrated.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency/respondent to rescind its determination that the petitioner submitted an early health care renewal on April 5, 2023, and to take all administrative steps to reinstate petitioner's SLMB+ benefits retroactive to July 1, 2023. The agency shall comply with this order within 10 days of the date of this decision.

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

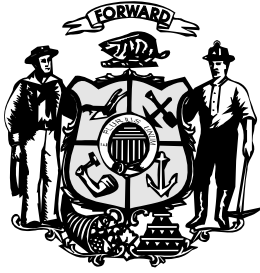
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 2nd day of October, 2023



Jason M. Grace
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 October 2, 2023.

Rock Cty Human Services
Division of Health Care Access and Accountability