



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MQB - 215664

PRELIMINARY RECITALS

Pursuant to a petition filed on October 24, 2024, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Winnebago County Department of Human Services regarding Medical Assistance (MA), a hearing was held on December 11, 2024, by telephone.

The issue for determination is whether the agency correctly terminated Petitioner's enrollment in the Medicare Savings Program effective March 1, 2024.

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: Janet Williams

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Wendy I. Smith
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County who was previously enrolled in the MAPP program and Medicare Savings Programs (MSP) beginning in October 2023.

2. On January 8, 2024, Petitioner applied for healthcare insurance through the Federal Marketplace requesting Medicaid or BadgerCare Plus. In this application, Petitioner reported new employment from [REDACTED] with a gross monthly income of \$1,750.42. He also reported that others in his household had other income but did not specify who. By submitting his application, Petitioner certified that his answers were correct and complete to the best of his knowledge.
3. On or about February 1, 2024, Respondent processed Petitioner's application. To verify his newly reported income, Respondent issued a notice to Petitioner dated February 2, 2024, requesting proof documents of his income from [REDACTED]. The stated deadline to produce proof of his expected monthly income and number of hours worked was February 21, 2024. The notice advised Petitioner that failure to provide the requested documentation by the deadline may result in his healthcare benefits being denied, decreased, or ended.
4. Proof documents were not received by Respondent by the stated deadline. In a notice dated February 23, 2024, Respondent advised Petitioner that his healthcare benefits, including any benefits under the BCP, Medicaid, MAPP, or MSP programs, would end March 1, 2024, due to failure to supply the required proof documents.
5. The notice of decision dated February 23, 2024, advised Petitioner that he had a right to request a fair hearing if he disagreed with the agency's decision. The deadline to request a fair hearing relating to his healthcare benefits was April 16, 2024.
6. On July 11, 2024, Petitioner contacted the Respondent agency to inquire about his MA enrollment. He was advised that his enrollment ended due to failure to provide verification and that he would need to reapply. Petitioner reapplied by telephone and requested three months of backdated coverage beginning April 1, 2024. In this application, Petitioner reported that he was not currently working.
7. In a notice dated July 12, 2024, Respondent requested that Petitioner supply proof documents for the balance of his reported prepaid debit card. The deadline for providing this documentation was August 12, 2024. The notice advised Petitioner that failure to provide the requested documentation by the deadline may result in his healthcare benefits being denied, decreased, or ended.
8. Proof documents were not received by Respondent by the stated deadline. In a notice dated August 13, 2024, Respondent advised Petitioner that his application for MA was denied due to failure to supply the required proof documents.
9. The notice of decision dated August 13, 2024, advised Petitioner that he had a right to request a fair hearing if he disagreed with the agency's decision. The deadline to request a fair hearing relating to his healthcare benefits was September 30, 2024.
10. On August 14, 2024, Petitioner contacted the agency by telephone and was advised that his application was denied for failure to provide proof documents. After that conversation, Respondent received a balance statement from [REDACTED] showing a checking account balance of \$6.72.
11. In a notice dated August 29, 2024, Petitioner was advised that his healthcare benefits were approved with Medicaid enrollment effective August 1, 2024, and MSP enrollment in the QMB subprogram effective September 1, 2024. Petitioner was not found to be eligible for backdated coverage.

12. The notice of decision dated August 29, 2024, advised Petitioner that he had a right to request a fair hearing if he disagreed with the agency's decision. The deadline to request a fair hearing relating to his healthcare benefits was October 14, 2024.
13. On September 23, 2024, Petitioner contacted the agency to inquire about MSP backdated coverage and was advised that his current enrollment in the MSP QMB subprogram does not permit backdated coverage. Petitioner verbally requested a fair hearing and was advised that he needed to complete a Fair Hearing Request form and return it to the agency.
14. The Division of Hearings and Appeals received Petitioner's signed request for fair hearing regarding his MA with a postmarked date of October 24, 2024.
15. Following Petitioner's request for fair hearing, Respondent reviewed Petitioner's case and issued a notice dated November 21, 2024, in which it granted eligibility to Petitioner in the MSP SLMB subprogram for the month of August 2024.

DISCUSSION

Petitioner's Notice of Denial Dated February 2, 2024

Petitioner was advised in the notice dated February 2, 2024, that Petitioner was required to submit proof documents for his newly reported employment and income from [REDACTED] by a deadline of February 21, 2024. Petitioner did not supply that documentation by the stated deadline and, in response, Respondent terminated his enrollment in MAPP and MSP effective March 1, 2024.

Petitioner had a right to challenge this decision by requesting a fair hearing, but only if he requested the hearing within the statutory filing period. At the time the February 23, 2024, denial notice was sent to Petitioner, an appeal of a negative action concerning MA had to be filed within 45 days of the action. Wis. Stat. § 49.45(5)(a); Wis. Admin. Code, §HA 3.05(3)(a). Language concerning the right to appeal and the time limit is included on all department notices. The date of filing is the date the written appeal is received by the agency or the postmark date, whichever is earlier. Admin. Code, §HA 3.05(3)(c). If an appeal is untimely the Division of Hearings and Appeals lacks jurisdiction to consider the petitioner's position on the merits. Petitioner's appeal was postmarked October 24, 2024, making appeal of that issue untimely.

Petitioner asserts that he never got the February notices but failed to prove that service of these documents to his address of record was somehow defective. As such, the Division of Hearings and Appeals has no jurisdiction over this portion of his appeal due to untimeliness.

Petitioner's Subsequent Reapplication and Denial Notice Dated August 13, 2024

For the same reasons stated above, Petitioner's request for a fair hearing was not timely received as to the notice of denial of his application dated August 13, 2024. The statutory deadline for requesting a hearing was September 30, 2024. As acknowledged in the Findings of Fact, Petitioner verbally requested a fair hearing when he contacted the agency on September 23, 2024. However, Wis. Admin. Code HA 3.05(2)(a) states that an "oral request to the agency shall be reduced to writing by the agency and signed by the petitioner, except that a request involving only food stamps need not be signed" and that upon receipt, the agency "shall immediately date-stamp the request and forward it to the [Division of Hearings and Appeals]."

The postmarked date of Petitioner's signed request form was October 24, 2024, which is after the statutory deadline. Petitioner's appeal of the denial of his healthcare application dated August 13, 2024, is therefore untimely and the Division of Hearings and Appeals has no jurisdiction to review the agency's decision.

Petitioner's Notice of Eligibility for Benefits Dated August 29, 2024

For the same reasons stated above, Petitioner's request for a fair hearing was not timely received as to the notice of eligibility dated August 29, 2024. This notice granted Petitioner enrollment in Medicaid effective as of August 1, 2024, and in MSP effective as of September 1, 2024. Petitioner's most recent application requested backdated coverage beginning in April 2024. Respondent provided evidence that verification of income and assets from Petitioner's prepaid debit card or other financial accounts was not received for any of the requested backdated coverage months.

Nevertheless, if Petitioner wanted to challenge this determination, the statutory deadline for requesting a hearing was October 14, 2024. As acknowledged in the Findings of Fact, Petitioner verbally requested a fair hearing when he contacted the agency on September 23, 2024. However, Wis. Admin. Code HA 3.05(2)(a) states that an "oral request to the agency shall be reduced to writing by the agency and signed by the petitioner, except that a request involving only food stamps need not be signed" and that upon receipt, the agency "shall immediately date-stamp the request and forward it to the [Division of Hearings and Appeals]."

The postmarked date of Petitioner's signed request form was October 24, 2024, which is after the statutory deadline. Petitioner's appeal of the denial of his healthcare application dated August 29, 2024, is therefore untimely and the Division of Hearings and Appeals has no jurisdiction to review the agency's decision.

Petitioner's Notice of Eligibility for Benefits Dated November 21, 2024

After submission of his request for a fair hearing, Respondent reviewed Petitioner's case and reinstated enrollment in the MSP SLMB subprogram for the month of August, as stated in a notice dated November 21, 2024. As this notice was issued after Petitioner's request for a fair hearing, it is not subject to the instant appeal. If Petitioner seeks to challenge this agency action, he must submit an appeal no later than the statutory deadline of January 6, 2025.

CONCLUSIONS OF LAW

Petitioner's appeal request for agency actions in notices dated February 2, 2024, August 13, 2024, and August 29, 2024, are untimely as Petitioner's request for a fair hearing was postmarked after the relevant statutory deadlines for each action.

THEREFORE, it is

ORDERED

That Petitioner's 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.

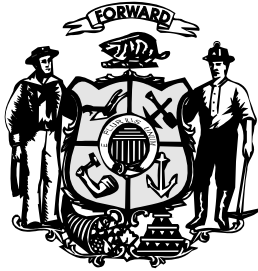
APPEAL TO COURT

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 16th day of December, 2024

\s _____
Wendy I. Smith
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 December 16, 2024.

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