



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: FCP - 217978

PRELIMINARY RECITALS

Pursuant to a petition filed on April 21, 2025, under Wis. Admin. Code § DHS 10.55, to review a decision by the My Choice Family Care regarding Medical Assistance (MA), a hearing was held on June 4, 2025, by telephone.

The issue for determination is whether the agency correctly denied the petitioner's Medicaid as of December 31, 2024.

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: Lyeschia Griffin, IM agency
Megan Bailey
My Choice Family Care
10201 Innovation Dr, Suite 100
Wauwatosa, WI 53226

ADMINISTRATIVE LAW JUDGE:

Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a 42 year old resident of Milwaukee County. She was receiving services under the FamilyCare program.
2. In an unknown month prior to December 2024, the petitioner became eligible for Disabled Adult Child (DAC) benefits and lost her Supplemental Security Income (SSI), and therefore also her SSI Medicaid.
3. On December 9, 2024, the agency mailed the petitioner a notice that stated that she was no longer eligible for Medicaid as of December 31, 2024, as she was over the income limit. The petitioner's monthly income was \$1,075.
4. On January 22, 2025, the agency received a routing form from the FamilyCare agency requesting that the petitioner be tested for community waivers eligibility; however, the agency failed to take action as the case was closed.
5. On February 3, 2025, the agency received an application for health care from the petitioner. The agency also received confirmation that the petitioner had been disenrolled from FamilyCare as of January 31, 2025.
6. On February 13, 2025, the agency processed the petitioner's application for health care and requested verification of assets.
7. On February 24, 2025, the agency reopened the petitioner's Medicaid eligibility. It backdated her Medicaid card services benefit to January 1, 2025.
8. On March 7, 2025, the petitioner met with a staff person at the ADRC and was re-enrolled into FamilyCare on the same date.

DISCUSSION

The Family Care Program is a Medical Assistance home and community based waiver program designed to provide long-term care services for individuals with physical and developmental disabilities and elderly individuals through a managed care service delivery model. See Wis. Stat. §46.286, Wis. Admin. Code ch. DHS 10, Family Care 1915(b) Waiver, and Family Care 1915(c) Home and Community-Based Services Waiver. The Department of Health Services ("the Department") contracts with managed care organizations (MCOs) throughout the state to provide services to Family Care members. See the Family Care / Partnership 2025 Contract (available online at <https://www.dhs.wisconsin.gov/familycare/mcos/contract.htm>).

To be eligible for Family Care, a person must apply for benefits and meet the program's financial, non-financial, and functional criteria. Wis. Stat. §46.286(1); Wis. Admin. Code §§ DHS 10.32(1)(d) and (e). The Aging and Disability Resource Centers (ADRCs) complete the initial functional screen, and the Income Maintenance ("IM") agencies determine financial and non-financial eligibility. Wis. Admin. Code §10.31(4)(a). However, a person who meets all of the program eligibility criteria is not entitled to receive benefits until he is enrolled in a managed care organization (MCO). See Wis. Stat. §46.286 ("A person is eligible for, but not necessarily entitled to, the FamilyCare benefit if [the person satisfies all eligibility criteria]"), Wis. Admin. Code § DHS 10.36(1), and Wis. Admin. Code § DHS 10.41(1). In other words, an individual cannot begin to actually receive FamilyCare benefits until s/he is enrolled in a managed care

organization and s/he cannot be enrolled in a managed care organization until s/he is found eligible for Medicaid. If a person loses Medicaid financial eligibility, they will consequently be disenrolled from FamilyCare.

In this case, the petitioner had been receiving Supplemental Security Income (SSI) benefits including SSI Medicaid. In an unknown month prior to December 2024, the petitioner became eligible for Disabled Adult Child (DAC) benefits of \$1,075 per month which caused her to lose her SSI income benefit as well as her SSI Medicaid. The agency screened her for Categorically Needy Medicaid; however, she was ineligible as it had an income limit of \$1,050.78. The agency then issued a denial notice for Medicaid on December 9, 2024, which stated that her Medicaid would end on December 31, 2024.

The petitioner's authorized representative submitted a new application for Medicaid on February 3, 2025. After verifying the petitioner's income and assets, this application was ultimately approved on February 24, 2025. The IM agency backdated the petitioner's Medicaid card services benefits back to January 1, 2025. However, the petitioner was not re-enrolled into FamilyCare until March 7, 2025. This left a gap from February 1, 2025 to March 7, 2025 when the petitioner was not enrolled in FamilyCare. (The FamilyCare managed care organization did not disenroll the petitioner until January 31, 2025.)

At the hearing, the agency representative testified that the petitioner should have been screened for the Medicaid Deductible (medically needy) program which had an income limit of \$1,304.17. Given that the petitioner's income was below \$1,304.17, she would have qualified for the Medicaid Deductible program without a deductible, and been eligible for Medicaid immediately. Likewise, the petitioner should have been tested for community waivers eligibility by the IM agency, and would have at least qualified as a Group B member with a cost share. (However, by meeting the eligibility criteria for the Medicaid Deductible program, the petitioner qualifies as a Group A member with no cost share.)

I agree that the IM agency had a duty to screen the petitioner for other forms of Medicaid prior to disenrolling her on December 31, 2024. The ending of her Medicaid benefits caused her to be disenrolled from the FamilyCare program. The petitioner was eligible for the Medicaid Deductible program in December; therefore, her Medicaid eligibility should not have been terminated, and her enrollment in FamilyCare should have continued.

Finally, I must address the timeliness of this appeal. The hearing record contains an About Your Benefits notice from December 9, 2024. This notice informed the petitioner that her Medicaid would be ending as of December 31, 2024. The appeal deadline for this notice was February 17, 2025. There is also an About Your Benefits Notice dated February 25, 2025, which indicates that Medicaid was approved as of January 1, 2025. This notice has an appeal deadline of April 14, 2025. However, neither of these notices mention that the petitioner will be losing her eligibility for community waivers. The petitioner is entitled to at least 10 days advance notice of the termination of her community waivers with said notice also advising her of her appeal rights. *Medicaid Eligibility Handbook* § 23.1.4.2. (See also the *2025 FamilyCare and FamilyCare Partnership Contract with the Department*, Article XI, Grievances and Appeals, page 211, requiring 15 days advance notice of termination from program) As the hearing record lacks any written notice to the petitioner that she would be losing her community waivers benefit, I find that her appeal is timely.

CONCLUSIONS OF LAW

1. The petitioner was not properly screened for the Medicaid Deductible program by the Income Maintenance agency prior to her Medicaid being terminated on December 31, 2024.

2. The petitioner was eligible for the Medicaid Deductible program (without a deductible) in December 2024; therefore, her Medicaid, and consequently her FamilyCare enrollment, were improperly terminated.

THEREFORE, it is

ORDERED

That this case is Remanded to the agency with instructions to reinstate the petitioner's eligibility in FamilyCare back to February 1, 2025. The agency shall do this 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.

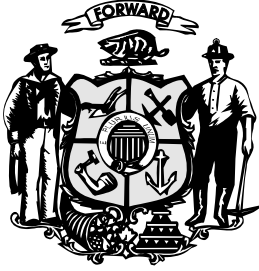
APPEAL TO COURT

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 9th day of July, 2025

\s _____
Kate J. Schilling
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 July 9, 2025.

MY Choice Family Care
Office of Family Care Expansion
Health Care Access and Accountability

