



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

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

DECISION
Case #: FCP - 218679

PRELIMINARY RECITALS

Pursuant to a petition filed on June 12, 2025, under Wis. Admin. Code § DHS 10.55, to review a decision by the Department of Health Services and its contracted agent, MY Choice Family Care, to disenroll Petitioner from Family Care, a hearing was initiated on July 23, 2025 and continued on August 11, 2025, by telephone. This appeal was held with a companion appeal (Case No. MGE-219282) regarding a closure of Petitioner's Medical Assistance case. A separate decision has been issued under that case number.

The issue for determination is whether Petitioner was properly disenrolled from Family Care as of June 1, 2025.

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: Andrea Williams
MY Choice Family Care
10201 Innovation Dr, Suite 100
Wauwatosa, WI 53226

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County who is enrolled in the Family Care Program.
2. Petitioner's managed care organization ("MCO") is MyChoice.
3. Petitioner's Medicaid renewal was due in March 2025 and Petitioner initiated his renewal in that month. Because the renewal was still being processed as of the end of March 2025, Milwaukee Enrollment Services (MILES) extended the due date to "at least until April 30, 2025." (MILES Exhibits, p. 11).
4. Sometime in March or April 2025, Petitioner's guardian discovered that the value of Petitioner's sole asset, a whole life insurance policy, had increased to approximately \$2,100 and that she lacked the legal authority to withdraw funds from his life insurance policy.
5. In March or April 2025, Petitioner's guardian retained an attorney to file a petition with the local circuit court to expand her guardianship authority. MILES was notified that this process was underway no later than April 18, 2025.
6. By notice dated April 23, 2025, MILES informed Petitioner that his Nursing Home Long Term Care would end as of June 1, 2025 because his assets were over the asset limit.
7. On May 21, 2025, Petitioner's guardian was granted the authority that she needed to withdraw funds from Petitioner's life insurance policy and she promptly did so.
8. On May 28, 2025, Petitioner's guardian submitted verification to MILES showing that the countable value of Petitioner's life insurance policy, and total assets, had been decreased to less than \$2,000.
9. Effective June 1, 2025, Petitioner was disenrolled from Family Care.
10. On June 12, 2025, Petitioner's guardian filed an appeal seeking re-enrollment into Family Care as of June 1, 2025.
11. Petitioner was re-enrolled in Family Care effective July 1, 2025.
12. Due to human error, MILES did not send a manual certification to reopen Petitioner's Medical Assistance until June 20, 2025. Due to apparent system error, that request was not processed appropriately. On July 8, 2025, a second manual certification was sent and, again, was not processed appropriately.
13. On July 23, 2025, the Division of Hearings and Appeals initiated a hearing. At that time, a representative from MyChoice appeared on Respondent's behalf but no representative from MILES appeared. The hearing was thus scheduled to continue on August 11, 2025 and MILES was directly notified of that hearing date.
14. On July 24, 2025, MILES worked directly with ForwardHealth to remedy the errors specified in Finding of Fact No. 12 and Petitioner's Medical Assistance was backdated to include both May 2025 and June 2025.

DISCUSSION

To participate in Family Care, an individual must meet the financial and non-financial eligibility criteria for one of the following: a “full benefit category of [Elderly, Blind, Disabled] Medicaid”, BadgerCare Plus, Wisconsin Well Woman Medicaid, or Adoption Assistance. *Medicaid Eligibility Handbook (MEH)* §§1.1.2 and 28.1.2 Therefore, if a person becomes ineligible for any of the above-listed categories of Medicaid, they become ineligible for Family Care and must be disenrolled.

In this case, Petitioner was automatically disenrolled from Family Care on June 1, 2025. A representative from MyChoice, Petitioner’s managed care organization, testified that Petitioner had become ineligible for Medicaid as of April 30, 2025 but that “as a courtesy”, the MCO continued his enrollment through May 31, 2025. There are a few problems with this.

First, Respondent did not provide a copy of any notice sent to Petitioner that his Medicaid would, in fact, end on April 30, 2025.

Second, the evidence in the record established that Petitioner’s guardian initiated the renewal process during the renewal month, that she worked diligently to comply with the verification requirements which necessitated her retaining an attorney and going to court to request that her guardianship authority be expanded, and that she kept MILES up to date on the steps she was taking to obtain the verification and the hurdles that she faced. As stated in a recently issued publication from the Department of Health Services, “federal rules require states to maintain coverage while completing regularly scheduled renewals as long as the renewal is received before the end of the month the renewal is due.” *DMS Operations Memo 25-07*. That publication goes on to state, “The member’s existing health care coverage must be maintained while their renewal is being processed by the IM agency. This requirement applies to all renewals received during the renewal month, including renewals received after adverse action but on or before the last business day of the renewal month.” Although the policy announced in that publication is new, the federal rules upon which it is based are not.

Third, it is undisputed that as of May 28, 2025, Petitioner had provided all necessary verification to MILES to establish that the value of his assets was under the asset limit. In other words, Petitioner was disenrolled from Family Care effective June 1, 2025 despite having proven that he was still eligible for Medicaid by May 28, 2025. I understand that the MCO relies on a state administered database, MMIS, to determine whether an enrollee has current Medicaid status and that, on May 31, 2025, that database likely indicated that Petitioner was not eligible for Medicaid. That was, however, not an accurate reflection of his Medicaid eligibility. Rather, it reflected that MILES had not yet processed the verification that Petitioner’s guardian had submitted.

Fourth, the evidence in the record demonstrated that Petitioner’s Medicaid never should have been closed because his **countable** assets never exceeded \$2,000, the asset limit for unmarried recipients of “Nursing Home Long Term Care” Medicaid. See *Medicaid Eligibility Handbook [MEH]* §16.1 and 39.4.1. **An asset is only countable if it is available.** *Id.* at §16.1. An asset is available when the following criteria are met:

1. It can be sold, transferred, or disposed of by the owner or the owner’s representative, and
2. The owner has a legal right to the money obtained from sale of the asset, and
3. The owner has the legal ability to make the money available for support and maintenance, and
4. The asset can be made available in less than 30 days.

Id. at §16.2.1. An asset is not available if the recipient lacks the ability to provide legal access to the assets. *Id.* Although the cash surrender value of Petitioner's life insurance policy may have exceeded the \$2,000 asset limit when his guardian initiated his renewal, those funds were not available, and therefore not countable, until May 21, 2025--the date on which a court granted his guardian the authority that she needed to access those funds. (There was no assertion that Petitioner had the capacity to access those funds on his own behalf.)

For these reasons, I am remanding this matter to order that Petitioner be re-enrolled in Family Care back to June 1, 2025.

CONCLUSIONS OF LAW

Because Petitioner initiated his Medicaid renewal in March 2025, which was the month during which his renewal was due; because he complied with all verification requirements by May 28, 2025; and because he continuously met Medicaid eligibility requirements, Petitioner was not properly disenrolled from Family Care on June 1, 2025.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with instructions to: (1) reinstate the petitioner's Family Care benefits from June 1, 2025 through June 30, 2025, or the date on which he was previously re-enrolled, whichever is later, (2) send written confirmation of re-enrollment to Petitioner's guardian, and (3) if applicable, instruct Petitioner's guardian and/or providers in writing regarding how to submit claims and/or request reimbursement for previously authorized services that Petitioner continued to receive after he was improperly disenrolled from Family Care and prior to the date of his re-enrollment. These actions shall be completed within 10 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.

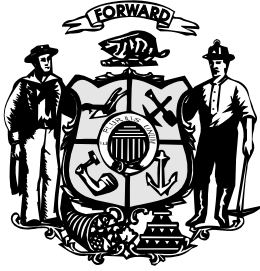
APPEAL TO COURT

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 2nd day of September, 2025

\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 September 2, 2025.

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