



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

In the Matter of

[Redacted]

DECISION
Case #: MGE - 220385

PRELIMINARY RECITALS

Pursuant to a petition filed on October 9, 2025, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on December 3, 2025, by telephone.

The issue for determination is whether the agency erred in acting to terminate petitioner's Medicaid/waiver program enrollment effective 3/1/25; or the re-enrollment as of 10/2/25.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703

By: S. Green
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.

2. Petitioner was enrolled in Medicaid and community waivers.
3. On 1/13/25 the agency sent a notice to petitioner informing her that it was time for her periodic renewal of her Medicaid case. The notice informed petitioner that she was required to act by 2/14/25. The notice informed petitioner that if she did not act to complete the renewal by 2/14/25 that her Medicaid could be terminated on 2/28/25. The notice provided details on how to complete the renewal by phone, online, or by mail.
4. Petitioner did not act to complete the renewal by 2/14/25.
5. On 2/17/25 the agency sent notice to petitioner that her Medicaid would terminate on 2/28/25.
6. On 2/21/25 the petitioner contacted the agency to begin her renewal. She left a message seeking a call back from a worker.
7. On 2/24/25 the agency received a renewal form from petitioner.
8. On 2/25/25 an agency worker called petitioner to continue the renewal process the renewal.
9. Petitioner declined to complete the renewal at that time.
10. The agency processed the renewal form that petitioner had submitted. The agency determined that documentary verification was required relating to earned income at [REDACTED] and savings account balance. The agency also needed to obtain a signature in order to complete the renewal.
11. On 2/28/25, the agency sent petitioner a notice informing her that the above verification was required. The notice stated that these things were needed in order for petitioner to continue getting Medicaid program eligibility.
12. On 2/28/25 petitioner was disenrolled from Medicaid eligibility and the waiver programs because the renewal had not been completed.
13. On 3/14/25 the agency received a bank statement. Income verification previously requested was not provided.
14. On 8/19/25 petitioner re-applied from MA and waiver eligibility.
15. Petitioner was enrolled in community waivers on 10/2/25.

DISCUSSION

The Family Care program (FCP) is a MA waiver program that provides appropriate long-term care services for elderly or disabled adults. Wis. Stat. §46.286; see also Wis. Admin. Code, Chapter DHS 10. To be eligible, a person must meet the program’s financial and non-financial criteria, including functional criteria. Wis. Admin. Code, §§DHS 10.32(1)(d) and (e). Wis. Admin. Code, §DHS 10.33(2) provides that an FCP applicant must have a functional capacity level of comprehensive or intermediate (also called nursing home and non-nursing home). The process contemplated for an applicant is to test for functional eligibility, then for financial eligibility, and if the applicant meets both standards, to certify him/her as eligible. Then s/he is referred to a Managed Care Organization (MCO) for enrollment. See Wis. Admin. Code, §§DHS 10.33 – 10.41. The MCO then drafts a service plan using MCO selected providers, designing a care system to meet the needs of the person, and the person executes the service plan. At that point, the person’s services may begin.

The regulations and policy state that an IM agency must process an application for MA/FCP in accordance with rules and policy which require the agency to process and determine eligibility within 30 days of receipt of the application. See §DHS 10.31(6)(a) and *Medicaid Eligibility Handbook (MEH)* §2.7, available online at http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm#t=policy_files%2F20%2F20.1.htm.

Once a person meets all the program’s eligibility criteria, he is “entitled to enroll in a care management organization and to receive the family care benefit.” Wis. Admin. Code §DHS 10.36(1). However, there is no explicit timeline for completing enrollment once eligibility is confirmed. Wis. Admin. Code §DHS 10.41(1) provides that: “The family care benefit is available to eligible persons only through enrollment in a care management organization (CMO) [now referred to as managed care organizations or MCOs] under

contract with the department.” Strictly applying this code provision can lead to harsh results. With many entities involved in the administration of the FCP—income maintenance agencies, resource centers, and managed care organization—eligibility determinations sometimes get lost in the shuffle and are not processed within the 30-day timeframe outlined by Wis. Admin. Code §DHS 10.31(6). When this happens, applicants through no fault of their own are at risk of delayed enrollment.

Over the past several years, the Department has issued final decisions that mitigate the harshness of this type of strict application. See e.g., *In re* ██████████, DHA Case No.16-7655 (Wis. Div. Hearings & Appeals March 21, 2016) (DHS) and *In re* ██████████, DHA Case No. 17-3457 (Wis. Div. Hearings & Appeals Sept. 15, 2016) (DHS). In those cases, the DHS found that where there is an agency error that causes a delay in the processing of an individual’s application for Medical Assistance (i.e., a determination of an individual’s financial and non-financial eligibility by the income maintenance agency) and, in turn, a delay in the individual’s enrollment in an MCO, the DHS may adjust the individual’s enrollment date.

Backdating enrollment in FCP has been allowed for unreasonable delays caused by agency error. But, this case is not one of those. Here, petitioner was terminated from MA and her waiver program because she failed to complete a timely renewal. The agency sent petitioner notice in January 2025 to begin her renewal by 2/14/25. The agency also sought verification timely after her late start with her renewal. The petitioner took weeks to communicate with the agency relating to her challenges with obtaining the sought verification. By that time her program enrollment had already closed. The delays in renewal leading to case closure were not by the fault of the agency.

It was not for more than six months later that petitioner re-applied for MA and the waiver programs. While that enrollment was not without an error by the agency in processing, the application to enrollment time span was only six weeks. I do not find that this represents an undue delay caused by agency error that could justify a backdated enrollment date. That is actually one of the shortest time spans I have seen to achieve waiver enrollment.

CONCLUSIONS OF LAW

1. The agency did not err in its termination of petitioner’s MA due to incomplete renewal.
2. The agency did not unduly delay community waiver enrollment due to error.

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.

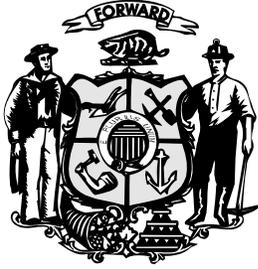
APPEAL TO COURT

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, 201 E. Washington Ave., **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 26th day of January, 2026

\s _____
John Tedesco
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 January 26, 2026.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability