



FH
[REDACTED]

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

In the Matter of

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

DECISION
Case #: MGE - 220918

PRELIMINARY RECITALS

Pursuant to a petition filed on November 19, 2025, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Shawano County Department of Human Services regarding Medical Assistance (MA), a hearing was held on January 7, 2026, by telephone.

The issue for determination is whether Petitioner's Medical Assistance application filing date was properly set.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Petitioner's Representative:

Attorney Emily Ames
Hager, Dewick & Zuengler, SC
200 South Washington Street, Suite 200
Green Bay, WI 54301

Respondent:

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

By: Heather Ondik

Shawano County Department of Human Services
W7327 Anderson Avenue
Shawano, WI 54166-3105

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Shawano County who resides in a skilled nursing facility.
2. On Friday, August 28, 2025, Petitioner submitted an application for Institutional Medical Assistance (MA) to the agency via facsimile after the close of business.
3. The agency determined that the filing date of Petitioner's application was September 2, 2025, which was the first business day following the date that she faxed her MA application to the agency.
4. Based on the September 2, 2025 filing date, the agency concluded that Petitioner's MA eligibility could begin no earlier than June 1, 2025 (i.e., three full months prior to the filing date.)
5. By notice dated October 14, 2025, the agency notified Petitioner that she had been found eligible for "Nursing Home Long Term Care" (i.e., Institutional MA), that her eligibility had been backdated to June 1, 2025, and that she had a 74-day divestment penalty period that would run from June 1, 2025 through August 13, 2025.
6. Petitioner appealed the agency's decision because she believes that August 28, 2025, the date that her application was faxed to the agency, is the date that should be used as her application filing date, and because a filing date in August 2025 rather than September 2025 would result in an earlier benefit start date.

DISCUSSION

The *Medicaid Eligibility Handbook* (Release 25-04) provides local income maintenance (IM) agencies with the following instructions regarding how to determine application filing dates:

2.6.1 In Person/Mail/Fax

The filing date is the day a signed, valid application/registration form ([F-10101](#) or [F-10182](#)) or registration form ([F-10129](#)) is received by the IM agency or the next business day if it is received after the agency's regularly scheduled business hours.

2.6.2 By Telephone

When a request for assistance is made by telephone, the filing date is set when a telephonic signature or signed application/registration form is received by the agency.

2.6.3 By ACCESS

The filing date on an ACCESS application is the date the application is electronically submitted.

Medicaid Eligibility Handbook §2.6.

The agency representative at hearing accurately observed that the *Medicaid Eligibility Handbook* is a publication of the Department of Health Services, that local IM agencies must follow the policies set forth in that handbook, and that the agency's decision in this matter--to set September 2, 2025 as the filing date for Petitioner's application which was faxed after business hours on August 28, 2025--was consistent with Section 2.6.1 of the *Medicaid Eligibility Handbook*.

Petitioner did not dispute that the income maintenance agency acted in accord with the policy set forth in the *Medicaid Eligibility Handbook*. Rather, Petitioner argued that the Division of Hearings and Appeals should now act in accord with a relevant proposed hearing decision that was issued by Administrative Law

Judge Brian Schneider and adopted as a final decision by the current Secretary of the Department of Health Services. See MGE-209328 (Wis. Div. of Hearings & Appeals Oct. 3, 2023) (DHS), *adopted as final on Dec. 5, 2023*. That case required consideration of the precise issue presented by the instant case; namely, whether an MA application that was transmitted via fax after the close of business should be considered to have been filed on the date of the fax transmission or on the following business day.

ALJ Schneider observed that Medical Assistance policy requires an application that is submitted via ACCESS, an on-line portal operated by the Department of Health Services, to be considered filed on the calendar date of electronic submission even if that application is not submitted until after business hours. MGE-209328, p. 4, ¶1 and *Medicaid Eligibility Handbook* §2.6.3. He posited that because “both an ACCESS submission and a fax are forms of electronic submission with a date and time of submission easily accessible[, it] makes no sense that they are treated differently for establishing the month of application.” *Id.* He also noted that neither the Wisconsin State Statutes nor Wisconsin Administrative Code offer support for such a distinction. *Id.* at 3, ¶7. ALJ Schneider ultimately concluded that the filing date of the application submitted via fax on a Sunday was the date of the fax transmission, even though that transmission occurred during non-business hours. *Id.* at 4, ¶3.

At hearing, the agency argued that the final decision cited by Petitioner is “no longer relevant” and that “since [the issuance of that final decision in December 2023], the processing timeframes have been further defined within the Medicaid Handbook which is accessible to the public for review.” See *January 5, 2026 Agency Response to Petitioner’s Appeal*. Although the agency’s assertion that the policy regarding the timeline for processing applications has changed may be true, the policy sections that provide instruction on setting filing dates for faxed applications and ACCESS applications have not changed since November 2015. See *Medicaid Eligibility Handbook* Releases 25-04 and 15-03. Because the proposed decision that was issued by ALJ Schneider in October 2023, and adopted as final, without modification, by the current Secretary of the Department of Health Services in December 2023, applied a policy that was in place in 2023 and remains in place today to facts that are similar to the facts presented by this case, that decision is directly relevant to the current dispute.

The Secretary’s December 2023 final decision, which was issued despite the language in Section 2.6.1 of the *Medicaid Eligibility Handbook*, appears to represent the Department’s most recent interpretation of how to set the filing date for a faxed application that is transmitted during non-business hours. I therefore find that the filing date of the application that Petitioner submitted via fax after business hours on August 28, 2025 should be set on that date and not on the following business day.

Because Medicaid eligibility can be backdated up to three months prior to the month of application, adjusting Petitioner’s filing date from September 2, 2025 to August 28, 2025 alters her potential period of backdated eligibility to include May 2025. See *Medicaid Eligibility Handbook* §2.8.2. Petitioner, who did not dispute either the agency’s finding that she divested income and/or assets or the agency’s assessment of a 74-day penalty period, seeks the following remedies: (1) to have MA approved as of May 2025, and (2) to have her penalty period begin as of May 15, 2025, the date of the conceded divestment. If Petitioner is otherwise eligible in May 2025, she is entitled to those remedies. See *Medicaid Eligibility Handbook* §17.3.3, Ex. 8. The agency may seek additional verification to evaluate her eligibility in May 2025 if it has not already received that verification.

CONCLUSIONS OF LAW

Petitioner’s Medical Assistance application filing date is August 28, 2025, the date on which her application was transmitted via fax to, and received by, the agency.

THEREFORE, it is

ORDERED

Respondent shall, within ten days of the date of this decision, (1) adjust Petitioner’s filing date to August 28, 2025, (2) request verification needed to evaluate Petitioner’s May 2025 eligibility for Institutional Medical Assistance, OR if the agency already has verification sufficient to show that Petitioner met eligibility requirements in May 2025, backdate her eligibility to May 2025 and begin the previously-determined divestment penalty period on May 15, 2025, and (3) send Petitioner appropriate written notice.

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.

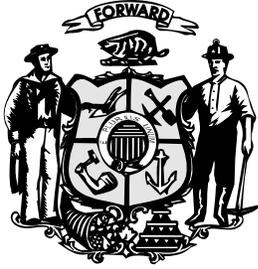
APPEAL TO COURT

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 6th day of February, 2026

\s _____
Teresa A. Perez
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
5th Floor North
4822 Madison Yards Way
Madison, WI 53705-5400

Telephone: (608) 266-7709
FAX: (608) 264-9885
email: DHAMail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 6, 2026.

Shawano County Department of Human Services
Division of Health Care Access and Accountability
Attorney Emily Ames