



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MGE - 211748

PRELIMINARY RECITALS

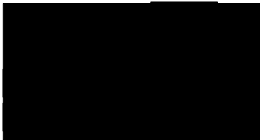
Pursuant to a petition filed on January 16, 2024, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the St. Croix County Health & Human Services regarding Medical Assistance (MA), a hearing was held on February 28, 2024, by telephone.

The issue for determination is whether Petitioner's immigration status renders her ineligible for Institutional Medical Assistance.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: Dayna Stellrecht
St. Croix County Health & Human Services
1752 Dorset Lane
New Richmond, WI 54017-1063

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is an 82-year old resident of Pierce County who applied and was found eligible for Medical Assistance in June 2022.
2. Petitioner resides in a skilled nursing facility.
3. Petitioner immigrated to the United States in 2018 and has remained in the United States since then. She has been granted “temporary protected status” (hereafter, TPS) by the Department of Homeland Security.
4. During the Covid-19 related public health emergency, Medical Assistance recipients were not required to complete renewals. As a result, after Petitioner was first found eligible, she was not required to undergo a program renewal until December 2023.
5. By notice dated December 1, 2023, the agency informed Petitioner that her Long Term Care Medical Assistance had ended as of November 1, 2023 because she is not a U.S. citizen or an eligible immigrant; however, her benefits, in fact, continued through December 31, 2023.
6. On January 16, 2024, Petitioner submitted a request for fair hearing with the Division of Hearings and Appeals.

DISCUSSION

To be eligible for Long Term Care Medical Assistance, an individual must be either a citizen or have some other qualifying immigration status. See *Medicaid Eligibility Handbook* §7.3, et.al. In this case, the agency explained that Petitioner has been granted “temporary protected status” which, although an immigration status that allows Petitioner to be lawfully present in the United States, does not constitute a qualifying immigration status for purposes of establishing Medicaid eligibility. The agency representative at hearing testified that the agency mistakenly found Petitioner to be eligible for Long Term Care Medical Assistance in June 2022 and was unable to correct its mistake at that time because special rules in place during the Covid-19 related public health emergency allowed most Medical Assistance recipients to have continuous coverage.

Petitioner’s niece, who advocated admirably for her aunt, presented written statements, medical records, and credible testimony explaining her aunt’s medical and financial challenges. She did not however dispute the agency’s evidence regarding her aunt’s immigration status. As an administrative law judge, I am empowered only to apply the relevant laws as they are written and reasonably interpreted. Based on the record before me, I must find that Petitioner’s immigration status does not qualify her for Long Term Care Medical Assistance.

CONCLUSIONS OF LAW

Petitioner is not a citizen or an eligible immigrant as that term is defined in Medicaid Eligibility Handbook §7.3.3; she is thus not eligible for Long Term Care Medical Assistance.

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

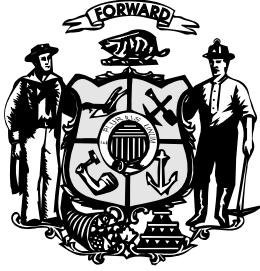
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 Madison,
Wisconsin, this 3rd day of April, 2024



\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

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The preceding decision was sent to the following parties on April 3, 2024.

St. Croix County Health & Human Services
Division of Health Care Access and Accountability