



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

Case #: BCS - 200361

PRELIMINARY RECITALS

Pursuant to a petition filed on October 30, 2020, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on November 18, 2020, by telephone.

The issue for determination is whether the respondent correctly denied petitioner’s request to backdate her MA enrollment for greater than three months.

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:   
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. The petitioner was found eligible for health care in 2019 and requested a 3 month backdate, which was approved when she applied in September of 2019. She did a renewal for health care in

the month of January, 2020 and was found over the asset limit for health care. Petitioner was tested for the MAPP program and advised that she would have a monthly payment of \$1,434 for MAPP eligibility. She declined the benefit at that time, and health care benefits have not been reopened.

3. Petitioner has not had an open MA case since 2019.
4. On September 16, 2020, the petitioner called the agency to see if the agency could look at her health care eligibility back to 2017. She was informed her health care is currently closed and that she could apply for health care with a 3 month back date.
5. On September 22, 2020, the petitioner called the agency about her health care coverage from 2017. She was informed that her health care closed as of May, 2020 and was informed that she could reapply for health care with a 3 month back date. At that time, petitioner stated she does not want to apply for health care coverage.
6. On October 5, 2020, the petitioner called the agency and stated she wanted health care benefits and wanted it backdated to 2017, to cover medical bills received at that time. The respondent explained that healthcare backdated coverage is only for 3 months.

### DISCUSSION

Petitioner filed this appeal seeking backdated MA benefits to cover medical expenses she incurred in 2017. She argues that she would be been eligible in 2017, and therefore should be entitled to backdated MA benefits.

BadgerCare Plus is Wisconsin's medical assistance program for those who are not elderly or disabled. Adults are ineligible if their household income exceeds the federal poverty level. Wis. Stat. § 49.471(4)(a); *Medicaid Eligibility Handbook* § 39.5; *BadgerCare Plus Handbook*, § 50.1. Medical assistance eligibility can be made retroactive to "the first day of the month 3 months prior to the month of application." Wis. Admin. Code, § DHS 103.08(1). The *Medicaid Eligibility Handbook* states the following in regard to retroactive eligibility:

... If certifying for retroactive BadgerCare Plus, do not go back further than the first of the month, three months prior to the application month. Certify the person for any backdate month in which he or she would have been eligible had he or she applied in that month. In the case of children, certify the person for any backdate month in which he or she would have been eligible had he or she applied in that month and in which their assistance group income was at or below the appropriate FPL level for their age group. ...

*Medicaid Eligibility Handbook*, § 25.8.1.

The respondent has established that backdated eligibility cannot exceed three months prior to the application month. The petitioner has in effect argued that the program standard is unfair and that the administrative law judge should grant her relief from the program requirements. It is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers, and cannot base a ruling upon an idea of what is deemed fair. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, she is not eligible for MA benefits backdated to 2017; no exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

**CONCLUSIONS OF LAW**

The respondent correctly determined that it cannot backdate MA benefits more than three months prior to the application month.

**THEREFORE, it is** **ORDERED**

That petitioner’s appeal is hereby 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, 5<sup>th</sup> 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.

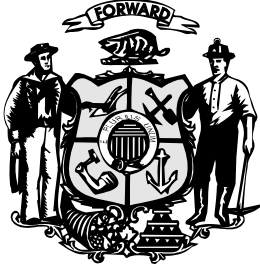
**APPEAL TO COURT**

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 6th day of January, 2021

\s \_\_\_\_\_  
Peter McCombs  
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 6, 2021.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability