

Chapter DHS 102

APPLICATION

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Note: Chapter HSS 102 as it existed on February 28, 1986, was repealed and a new chapter HSS 102 was created effective March 1, 1986. Chapter HSS 102 was renumbered Chapter HFS 102 under s. 13.93, Stats., and corrections made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, January, 1997, No. 493. Chapter HFS 102 was renumbered to chapter DHS 102 under s. 13.92 (4) (b) 1., Stats., and corrections made under s. 13.92 (4) (b) 7., Stats., Register December 2008 No. 636.

DHS 102.01 Application. Application for medical assistance (MA) shall be made pursuant to s. 49.47 (3), Stats., for medically indigent persons, s. 49.46, Stats., for categorically needy persons and s. 49.665, Stats., for persons under BadgerCare, and this chapter. Applications shall be made and reviewed in accordance with the following provisions:

(1) **RIGHT TO APPLY.** Any person may apply for MA. Application shall be made on a form prescribed by the department and available from an agency.

(2) **APPLICATIONS FROM OUTSIDE WISCONSIN.** (a) Except as provided under par. (b), application for Wisconsin MA shall not be accepted for a person residing outside Wisconsin.

(b) If a Wisconsin resident becomes ill or injured when absent from the state or is taken outside the state for medical treatment, application for Wisconsin MA for that person shall be made on a Wisconsin application form and witnessed by the public welfare agency in the other state in accordance with 42 CFR 435.403.

(3) **WHERE APPLICATION IS MADE.** Application shall be made to the agency in the county in which the primary person resides. An individual residing in a nursing home is considered a resident of the county where the nursing home is located. However, an application for a person in a state facility — northern, central, or southern center for the developmentally disabled; Winnebago or Mendota mental health institute; or the University of Wisconsin hospitals — shall be received and processed by the agency in the county in which the person resided at the time he or she was admitted to the facility.

(4) **ACCESS TO INFORMATION.** Persons inquiring about or applying for MA shall be given the following information by the agency in written form, and orally as appropriate: coverage, conditions of eligibility, scope of the program and related services available, and applicant and recipient rights and responsibilities. Bulletins or pamphlets specifically developed for this purpose shall be available at the agency. In those instances where there is a substantial non-English-speaking or limited-English-speaking population, the agency shall take whatever steps are necessary to communicate with this population in its primary language.

(5) **SPECIAL APPLICATION SITUATIONS.** Under the following circumstances, the following special application procedures shall apply:

(a) When a person 18 years of age or older is living in the household of the primary person but is not the primary person, the primary person's spouse, or a dependent 18-year old as defined in s. 49.19 (1) (a), Stats., the agency shall determine the eligibility of that person and that person's spouse or child, if any, separately from the rest of the persons listed on the application.

(b) When an unmarried man and woman reside together and have a minor child-in-common, the agency shall determine the eligibility of the man and woman together if the man is the father of the child, which shall be determined as follows:

1. If both the woman and the man are available, the man shall be considered the father of the child if his name is on the birth record, if a court proceeding has established paternity, or if a completed statement of paternity form has been signed by him and the mother and has been mailed or delivered to the agency.

2. If only the man is in the home and the woman is not available to participate in the steps necessary to fulfill the requirements of subd. 1., the man shall be determined to be the father of the child if:

a. His name is on the birth records;

b. He provides the agency with an affidavit in which he states that he is the child's father and proves that he and the child's mother lived together at the time of conception;

c. He files with the department a declaration of paternal interest under s. 48.025, Stats., and proves that he and the child's mother lived together at the time of conception;

d. He provides the agency with a written statement in which he acknowledges his paternity and proves that he and the child's mother lived together at the time of conception; or

e. He submits to the agency a sworn statement describing in sufficient detail the circumstances upon which he bases his claim to be the child's father and the agency has no reason to doubt his credibility.

Note: The statement of paternity form (F-05024 for English; F-050245 for Spanish) can be obtained from the Division of Public Health, P.O. Box 309, Madison, WI 53701.

(c) When a child or adult resides in a MA-certified skilled nursing facility, intermediate care facility, or inpatient psychiatric facility, or is hospitalized and is unable to live outside of the hospital, the agency may determine individually the eligibility of the child or adult.

(d) When a foster child resides in a licensed foster home or a child resides in a group home, the agency shall consider the child as the primary person for purposes of application.

(e) When a child is a parent or is pregnant, but not married and not under the care of a relative as specified in s. 49.19 (1) (a), Stats., the agency shall determine individually the eligibility of the child.

(f) In cases where 3 generations reside together, the agency shall consider the first generation to be caring for both the second-generation and third-generation children.

(g) 1. When a completed application is received before the death of an applicant who dies before eligibility is determined, the agency shall process and take action on the application in the same manner as with any other application.

2. An application on behalf of a deceased person may be made by an interested person who attests to the correctness of the eligibility information on behalf of the deceased.

(h) In cases where a minor child is residing with a non-legally responsible relative and no eligibility exists for the child under s. 49.46 or 49.47, Stats., the agency shall determine the eligibility of that child for BadgerCare under s. 49.665, Stats., on a separate application.

(6) **PROVIDING CORRECT AND TRUTHFUL INFORMATION.** The applicant, recipient, or person described in sub. (7) acting on behalf of the applicant or recipient is responsible for providing to

the agency, the department or its delegated agent, full, correct and truthful information necessary for eligibility determination or redetermination and for disclosing assets which the agency determines may affect the applicant's or recipient's eligibility, including but not limited to health insurance policies or other health care plans and claims or courses of action against other parties on the part of the applicant or recipient. Changes in income, assets or other circumstances which may affect eligibility shall be reported to the agency within 10 days of the change.

(7) SIGNING THE APPLICATION. Each application form shall be signed by the applicant or the applicant's caretaker relative defined under s. DHS 101.03 (22g), legal guardian, authorized representative or, where the applicant is incompetent or incapacitated, by someone acting responsibly for the applicant. When an institutionalized person who is applying for MA or an institutionalized recipient whose eligibility for MA is being redetermined has a community spouse, both the institutionalized spouse and his or her spouse, their authorized representatives or someone acting responsibly for the institutionalized spouse or his or her spouse shall sign the application form. Failure of either spouse or that person's authorized representative or someone acting responsibly on behalf of either spouse to sign the application form shall result in ineligibility for the institutionalized spouse under s. DHS 103.075. Except as provided under s. DHS 103.075 (5) (e), the agency shall proceed to determine eligibility for the institutionalized spouse under s. DHS 103.04 (4). The application shall be signed in the presence of an agency representative except when an institution superintendent makes application for public assistance on behalf of a resident pursuant to s. 49.84 (1), Stats. The signatures of 2 witnesses are required when the application is signed with a mark. In this subsection, "community spouse" and "institutionalized spouse" have the meanings prescribed in s. DHS 103.075 (3) (a) and (e).

History: Cr. Register, February, 1986, No. 362, eff. 3–1–86; am. (7), Register, March, 1993, No. 447, eff. 4–1–93; emerg. am. (intro.) and cr. (5) (h), eff. 7–1–99; am. (intro.) and cr. (5) (h), Register, March, 2000, No. 531, eff. 4–1–00; correction in (7) made under s. 13.93 (2m) (b) 7., Stats., Register February 2002 No. 554; corrections in (7) made under s. 13.92 (4) (b) 7., Stats., Register December 2008 No. 636.

DHS 102.02 Refusal to provide information. If a person refuses to provide information necessary for the determination of eligibility, all persons whose eligibility depends upon the withheld information shall be denied eligibility.

History: Cr. Register, February, 1986, No. 362, eff. 3–1–86.

DHS 102.03 Verification of information. (1) An application for MA shall be denied when the applicant or recipient is able to produce required verifications but refuses or fails to do so, except that a refusal or failure by an applicant for MA to verify assets does not affect eligibility for BadgerCare under s. 49.665, Stats. If the applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but shall proceed immediately to verify the data elements.

(2) The agency shall verify those data elements deemed appropriate under the circumstances of the case history for an applicant who has been convicted of public assistance-related fraud, is repaying aid pursuant to an agreement with the district attorney's office, or is known to have provided erroneous information on a previous application which resulted in an incorrect issuance of assistance.

(3) The following items shall be verified when applicable:

- (a) Income;
- (b) Pregnancy, including a pregnancy which is the basis of nonfinancial eligibility under s. DHS 103.03 (1) (b) 1.;
- (c) Incapacitation which is the basis of nonfinancial eligibility, unless incapacitation is presumed to exist according to s. DHS 103.03 (1) (e);
- (d) Social security number;

- (e) Age;
- (f) Citizenship or alien status;
- (g) Disability, blindness, or both;
- (h) Assets; and
- (i) Residence.

(4) Subsections (1) to (3) shall not be enforced until the first day of the month following the end of the emergency period defined in section 1135 (g) (1) (B) of the Social Security Act, 42 USC 1320b–5 (g) (1) (B), and declared by the United States Secretary of Health And Human Services in relation to the COVID–19 pandemic.

Note: Sub. (4) is repealed by CR 21–067 effective the first day of the month after the emergency period, as defined in 42 USC 1320b–5 (g) (1) (B) and declared in response to the COVID–19 pandemic, ends.

History: Cr. Register, February, 1986, No. 362, eff. 3–1–86; emerg. am. (1), eff. 7–1–99; am. (1), Register, March, 2000, No. 531, eff. 4–1–00; corrections in (3) (b) and (c) made under s. 13.92 (4) (b) 7., Stats., Register December 2008 No. 636; CR 21–067: cr. (4) Register March 2022 No 795, eff. 4–1–22, r. (4) eff. the first day of the month after the emergency period, as defined in 42 USC 1320b–5 (g) (1) (B) and declared in response to the COVID–19 pandemic, ends; correction in (4) made under s. 35.17, Stats., Register March 2022 No. 795.

DHS 102.04 Eligibility determination. (1) DECISION DATE. As soon as possible but not later than 30 days from the date the agency receives a signed application completed to the best of the applicant's ability, the agency shall conduct a personal interview with the applicant and shall determine the applicant's eligibility for MA. If a delay in processing the application occurs because of a delay in securing necessary information, the agency shall notify the applicant in writing that there is a delay in processing the application, specify the reason for the delay, and inform the applicant of his or her right to appeal the delay under s. 49.45 (5), Stats. If medical examination reports are needed to determine disability or blindness, the agency shall make the disability decision no later than 60 days from the date the agency receives the signed application.

(2) NOTICE OF DECISION. The agency shall send timely and adequate notice to applicants and recipients to indicate that MA has been authorized or that it has been reduced, denied or terminated. In this subsection, "timely" means in accordance with 42 CFR 431.211, and "adequate notice" means a written notice that contains a statement of the action taken, the reasons for and specific regulations supporting the action, and an explanation of the individual's right under s. 49.45 (5), Stats., to request a hearing and the circumstances under which benefits will be continued if a hearing is requested.

(3) REVIEW OF ELIGIBILITY. A recipient's eligibility shall be redetermined:

- (a) When information previously obtained by the agency concerning anticipated changes in the individual's situation indicates the need for redetermination;
- (b) Promptly after a report is obtained which indicates a change in the individual's circumstances that may affect eligibility;
- (c) Within 12 months after the date initial eligibility is determined for AFDC-related persons and persons eligible for BadgerCare;
- (d) Within 365 days after the date eligibility was last determined for SSI-related persons and persons eligible for the medic-aid purchase plan except that when a person is determined to be permanently disabled no further determination shall be made of that disability unless the county agency becomes aware of information that would affect the determination of permanent disability; and

(e) At any time the agency has a reasonable basis for believing that a recipient is no longer eligible for MA.

(4) REVIEW OF ELIGIBILITY SUSPENDED DURING THE COVID–19 PANDEMIC. All provisions regarding the review of eligibility in accordance with sub. (3) shall be suspended until the first day of the month following the end of the emergency period defined in

section 1135 (g) of the Social Security Act, 42 USC 1320b-5 (g) (1) (B), and declared by the United States Secretary of Health And Human Services in relation to the COVID-19 pandemic.

Note: Sub. (4) is repealed by CR 21-067 effective the first day of the month after the emergency period, as defined in 42 USC 1320b-5 (g) (1) (B) and declared in response to the COVID-19 pandemic, ends.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86; emerg. am. (2) and (3) (c), eff. 7-1-99; am. (2) and (3) (c), Register, March, 2000, No. 531, eff. 4-1-00; am. (3) (d), Register, November, 2000, No. 539, eff. 12-1-00; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register February 2002 No. 554; **CR 21-067: cr.**

(4) Register March 2022 No 795, eff. 4-1-22, r. (4) eff. the first day of the month after the emergency period, as defined in 42 USC 1320b-5 (g) (1) (B) and declared in response to the COVID-19 pandemic, ends; correction in (4) made under s. 35.17, Stats., Register March 2022 No. 795.

DHS 102.05 Fraud. When the agency director or a designee has reason to believe that fraud has been committed by an applicant or recipient, or by the representative of an applicant or a recipient, the case shall be referred to the district attorney.

History: Cr. Register, February, 1986, No. 362, eff. 3-1-86.