

## 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**Note:** Chapter HSS 102 as it existed on February 28, 1986, was repealed and a new chapter HSS 102 was created effective March 1, 1986.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 s. 49.473, Stats., for women diagnosed with breast or cervical cancer or precancerous conditions, and s. 49.471, Stats., for persons under BadgerCare Plus, 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. The application shall be made via the department's internet website, over the telephone, by fax, on a paper form, or in person with the 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.** (a) Persons inquiring about or applying for MA shall be given all of the following information by the agency in electronic and paper formats, and orally as appropriate:

1. The MA eligibility requirements.
2. All available MA services.
3. The rights and responsibilities of MA applicants and members.

(b) Information must be provided to applicants and members in plain language and in an accessible and timely manner.

(c) Applicants and members must be informed of the availability of accessible information and language services and how to access language services or auxiliary aids. At minimum, the agency must provide non-English language taglines indicating the availability of language services.

(d) For individuals who are limited English proficient, the agency must provide language services including oral interpretations and written translations at no cost to the individual.

(e) For individuals with disabilities, the agency must provide auxiliary aids and services at no cost to the individual, in accordance with the Americans with Disabilities Act, 42 USC 12101 to 12213.

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

(a) When a person 19 years of age or older is living in the household of the primary person but is not the primary person or the primary person's spouse, 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 on one application 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 paternity has been established under ch. 767, Stats., 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 any of the following circumstances apply:

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.

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.

(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. (a) In this subsection, "community spouse" and "institutionalized spouse" have the meanings provided in s. DHS 103.075 (3) (a) and (e).

(b) Each application submitted online, over the telephone, by fax, or on paper shall be signed by the applicant or the applicant's caretaker relative, legal guardian, authorized representative or, where the applicant is incompetent or incapacitated, by someone acting responsibly for the applicant.

(c) 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. Failure of either spouse or that person's authorized representative or someone acting responsibly on behalf of either spouse to sign the application 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).

(d) The signatures of 2 witnesses are required when the application is signed with a mark.

**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; **CR 23–046: am. (intro.), (1), r. and recr. (4), am. (5) (a), (b) (intro.), 1., 2. (intro.), a. to d., r. (5) (h), r. and recr. (7) Register April 2024 No. 820, eff. 5–1–24.**

**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 agency that has complied with subs. (1g) and (1r) shall deny an application for MA 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 Plus under s. 49.471, 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.

(1g) An individual shall not be required to provide additional information or documentation if it is not required to determine eligibility for the type of Medicaid or BadgerCare Plus, under subch. IV of ch. 49, Stats., that the member is requesting.

(1r) An individual shall not be required to provide additional information or documentation unless information needed by the agency cannot be obtained electronically or the information obtained electronically is not reasonably compatible with information by or on behalf of the individual. Income information obtained through an electronic data match shall be considered reasonably compatible with income information provided by or on behalf of an individual if both are at or below the applicable standard for MA.

(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) Each of the following items shall be verified when applicable:

(a) Income.

(b) Pregnancy, when the agency has information that contradicts the member's self-attestation. If there is no contradictory information, the agency shall accept the member's self-attestation of pregnancy.

(d) Social security number, subject to all of the following requirements:

1. Services must not be denied or delayed to an otherwise eligible individual pending issuance or verification of the individual's social security number by the Social Security Administration.

2. Any of the following individuals are not required to provide a social security number:

a. Individuals who are deemed eligible for MA, based on being born to a pregnant woman eligible for MA in Wisconsin, until they turn 1 year of age.

b. Individuals who are not eligible to receive a social security number.

c. Individuals who do not have a social security number and may only be issued a social security number for a valid non-work reason in accordance with 20 CFR 422.104.

d. Individuals who refuse to obtain a social security number because of well-established religious objections, as provided in s. 49.82 (2) (b) 3., Stats.

(e) Age.

(f) Citizenship subject to s. DHS 102.035.

(g) Disability, blindness, or both.

(h) Assets.

(i) Residence.

(j) Immigration status, subject to s. DHS 102.036.

**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; **CR 23–046: am. (1), cr. (1g), (1r), am. (3) (intro.), (a), (b), r. (3) (c), renum. (3) (d) to (3) (d) (intro.) and am., cr. (3) (d) 1., 2., am. (3) (e) to (h), cr. (3) (j) Register April 2024 No. 820, eff. 5–1–24; correction in (3) made under s. 13.92 (4) (b) 7., Stats., and correction in (1g) made under s. 35.17, Stats., Register April 2024 No. 820.**

**DHS 102.035 Verification of United States citizenship.** (1) The agency shall verify citizenship through a data match with the Social Security Administration. If citizenship cannot be verified through a data match with the Social Security Administration, the agency must verify citizenship through satisfactory documentary evidence as specified in s. 49.84 (6) (d),

Stats., except that any of the following are exempt from the requirement to verify citizenship:

(a) Individuals receiving supplemental security income benefits under 42 USC 1381–1383f.

(b) Individuals entitled to or enrolled in any part of Medicare.

(c) Individuals receiving disability insurance benefits under 42 USC 423 or monthly benefits under 42 USC 402, based on the individual's disability.

(d) Individuals who are in foster care and who are assisted under 42 USC 621–629m, and individuals who are beneficiaries of foster care maintenance or adoption assistance payments under 42 USC 670–679c.

(e) Individuals who are or were deemed eligible for MA in Wisconsin on or after July 1, 2006, based on being born to a pregnant woman eligible for MA.

(2) The agency shall not re-verify or require an individual to re-verify citizenship at a renewal of eligibility or upon a subsequent application following a break in coverage.

(3) If citizenship cannot be promptly verified, a reasonable opportunity period of 95 days shall be provided to applicants during which efforts must continue to obtain verification or, if necessary, request documentation. Benefits may not be delayed, denied, reduced, or terminated during the reasonable opportunity period if the individual is otherwise eligible for MA. A reasonable opportunity period shall only be granted once for verification of an individual's U.S. citizenship.

**History:** CR 23–046: cr. Register April 2024 No. 820, eff. 5–1–24.

#### DHS 102.036 Verification of immigration status.

(1) The agency shall verify immigration status of persons declaring a satisfactory immigration status either through the electronic service established by the U.S. department of health and human services, or the department of homeland security.

(2) Persons applying for MA emergency services provided under 42 USC 1396b(v) or applying for an unborn child under s. 49.471, Stats. shall not be required to verify their immigration status.

(3) If immigration status cannot be promptly verified, a reasonable opportunity period of 95 days shall be provided to applicants during which efforts must continue to obtain verification or, if necessary, request documentation. Benefits shall not be delayed, denied, reduced, or terminated during the reasonable opportunity period if the individual is otherwise eligible for MA. An additional reasonable opportunity period may be granted when a change in immigration status is reported.

(4) Unless the individual reports a change in immigration status or information is received that indicates a potential change in the individual's status, the agency shall not re-verify or require an individual to re-verify immigration status at a renewal of eligibility or upon a subsequent application following a break in coverage.

**History:** CR 23–046: cr. Register April 2024 No. 820, eff. 5–1–24.

#### DHS 102.04 Eligibility determination. (1) DECISION

DATE. (a) 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 determine the applicant's eligibility for MA.

(b) 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.

(c) If a delay in processing the application occurs because of a delay in securing necessary information, the agency shall notify the applicant in writing of all of the following:

1. That there is a delay in processing the application.
2. The reason for the delay.

3. The applicant's right to appeal the delay under s. 49.45 (5), Stats.

(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 in any of the following circumstances:

(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) In accordance with sub. (5), no more frequently than once every 12 months for persons eligible for BadgerCare Plus or MA under s. 49.46 (1) (a) 15. or 49.47 (4) (a) 1., Stats.

(d) At least every 12 months for SSI-related persons and persons eligible for the medicaid purchase plan, in accordance with sub. (4), except that when a person is determined to be permanently blind or disabled the agency may consider their blindness or disability as continuing until it is determined that they are no longer blind or disabled.

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

(5) PROCEDURES FOR REVIEWING ELIGIBILITY. (a) A review of eligibility under sub. (3) (c) or (d) shall be conducted without requiring information from the individual if the agency is able to do so based on reliable information contained in the recipient's case record or more current information available to the agency, including but not limited to information accessed through data bases accessed by the agency.

(b) If the agency is able to redetermine eligibility based on such information, the agency shall notify the recipient of all of the following:

1. The eligibility determination and basis.

2. The requirement that the recipient must inform the agency if any of the information contained in such notice is inaccurate, but that the recipient is not required to sign and return such notice if all information provided on such notice is accurate.

(c) If the agency cannot redetermine eligibility in accordance with par. (a), the agency shall do all of the following:

1. Provide the recipient with all of the following:

a. A renewal form containing information available to the agency that is needed to renew eligibility.

b. At least 30 days from the date of the renewal form to respond and provide any necessary information and to sign the renewal form.

c. Notice of the agency's intended action concerning the renewal of eligibility.

2. Verify any information provided by the recipient.

3. Reconsider in a timely manner the eligibility of a person who is terminated for failure to submit the renewal form or necessary information, if the person subsequently submits the renewal form within 90 days after the date of termination without requiring a new application.

**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; CR 23-046: r. and recr. (1), am. (3) (intro.), (a) to (d), cr. (5) Register April 2024 No. 820, eff. 5-1-24; renumbering of (5) (b) to (5) (c) made under s. 13.92 (4) (b) 7., Stats., and correction in (5) (c) made under s. 35.17, Stats., Register April 2024 No. 820.

**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.