



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/169846

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 04, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to Medical Assistance, a hearing was held on December 09, 2015, at Green Bay, Wisconsin.

The issue for determination is whether the petitioner qualifies for medical assistance.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
c/o [REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: [REDACTED]  
Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. The petitioner applied for institutional medical assistance on September 1, 2015. The county agency denied that application on September 21, 2015, due to assets exceeding program limits.

3. At the time of application, petitioner was the owner of residential real estate located at [REDACTED] Green Bay, Wisconsin. The property was then assessed at \$101,000.00.
4. The respondent's property was refinanced in 2013, and petitioner received debt financing in the amount of \$64,300.00. An appraisal dated April 16, 2013 determined the property value on that date to be \$29,000.00 using the sales comparison approach.

### DISCUSSION

A person is ineligible for institutional medical assistance if his assets exceed \$2,000. Wisconsin regulations hold that "only the assets actually available to that person shall be considered." Wis. Admin. Code, § DHS 103.06(1)(a); Wis. Stat. § 49.47(4)(b)3g. Eligibility begins "on the date on which all eligibility requirements were met, but no earlier than the first day of the month 3 months prior to the month of application." Wis. Admin. Code § DHS 103.08(1). If the person is over 65 or disabled, money set aside in a burial trust is exempt. Wis. Stat. § 49.47(4)(b).

The petitioner's medical assistance application was denied because he failed to verify the value of real estate that he owned. As a result, the respondent used the assessed value of the property gleaned from public assessment records.

Petitioner's representative credibly testified that she never received a summary or a verification request. She also indicated that she never received the written denial. She stated that she only learned of the denial via online access. The petitioner also presented a copy of a 2013 appraisal indicating the property value to be \$29,000.00, as well as a 2015 letter (referencing an October 29, 2015 visit to the property) from a local real estate broker indicating that the Brown County assessment of the property is only \$24,500.00. The broker also indicates that the property will require repairs before it could even be listed.

I conclude that the maximum value of the petitioner's real estate is currently \$24,500.00. Petitioner took out a loan on the property in 2013, in the amount of \$64,300. It is unknown what the present balance is on that loan, but it appears likely that it exceeds the present value of the real estate. This matter shall be remanded to the respondent to re-determine petitioner's medical assistance eligibility based upon a home value of \$24,500.00.

### CONCLUSIONS OF LAW

The value of petitioner's home in October, 2015, was \$24,500.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it re-determine petitioner's eligibility for institutional medical assistance based upon the \$24,500.00 value of petitioner's home in October, 2015, and the outstanding balance of petitioner's mortgage loan.

### **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, 5005 University Avenue, Suite 201, 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, Madison, Wisconsin 53703, **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 2nd day of February, 2016

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\sPeter 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 February 2, 2016.

Brown County Human Services  
Division of Health Care Access and Accountability