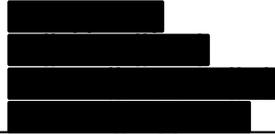




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MGE/172248

PRELIMINARY RECITALS

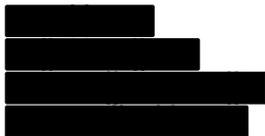
Pursuant to a petition filed February 24, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to Medical Assistance (MA), a hearing was held on April 05, 2016, at Fond Du Lac, Wisconsin.

The issue for determination is whether the agency correctly denied a January 2016 application for institutional Medicaid for lack of a spouse's signature and for failing to verify.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



Respondent:

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

By: [Redacted]

Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Fond Du Lac County.
2. An application for institutional Medicaid was filed on behalf of Petitioner on January 5, 2016.

3. Agency personnel met with Petitioner's daughters on January 19, 2016 and informed them that the application was missing a spouse's signature and verifications regarding income and assets as well as divestment information. The agency sent one of Petitioner's daughters a January 21, 2016 written request for this information. The due date for the submission of the requested information was February 4, 2016.
4. The agency did not receive the requested information and, on February 5, 2016, issued a notice indicating that the January 5, 2016 application for institutional Medicaid had been denied for failing to verify.
5. This appeal was filed as Petitioner's guardian had been unable to obtain the requested financial information as Petitioner's community spouse would not cooperate apparently contending that a prenuptial agreement meant she did not have to do so.

### **DISCUSSION**

Once an application is filed the local agency has 30 days to process the application and make a determination as to whether or not the applicant is eligible but this extended by 10 days for submission of verification.. *Medicaid Eligibility Handbook (MEH)*, §20.7.1.1. Verification of income and assets is mandatory at application. *MEH*, §§20.3.1. An application is to be denied if verification is not produced if the time to produce has passed provided there is notice and power to produce. *MEH*, §20.8.3. Spouses are legally responsible for each other financially. *See, MEH*, §32.1.2. Medicaid applications require the signature of both spouses or a person authorized to sign for that spouse and are denied without it:

#### ***2.5.3 Spousal Impoverishment Medicaid Signatures***

All [spousal impoverishment](#) Medicaid applications and reviews require the signatures of both the institutionalized person and the community [spouse](#) , or of a person authorized to sign for them.

If the institutionalized person's signature is missing, deny the application.

Beginning with applications dated November 11, 2013, if the community spouse refuses to sign the application, refuses to disclose the value of assets, or refuses to provide required information on income or resources, deny the application unless the agency determines that denial of eligibility would result in undue [hardship](#) for the person (see [Section 17.17 Undue Hardship](#)).

If the community spouse refuses to sign the application or provide required information, enter an "N-No" in the Health Care Signature field on the General Case Information page.

...  
*MEH*, §2.5.3.

Further, spousal impoverishment policies apply to institutional Medicaid applicants and prenuptial agreements have no effect on spousal impoverishment determinations. *MEH*, §§18.1 and 18.4.1, *respectively*. Finally, there are hardship provisions related to the spousal impoverishment determinations and those are found in the *MEH* at Chapter 17.17.

Here Petitioner's community spouse has not signed the application or provided the required financial information thus the application was correctly denied. As for a hardship determination there is a procedure for that and if it results in a determination by the agency that is adverse to Petitioner a hearing may again be requested. *See MEH*, §17.17.8.

### **CONCLUSIONS OF LAW**

That the agency correctly denied Petitioner's application for Medicaid for lack of a spouse's signature and failing to verify.

**THEREFORE, it is**

**ORDERED**

That this 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, 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**

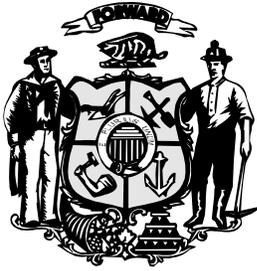
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those 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 Milwaukee,  
Wisconsin, this 24th day of May, 2016

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\sDavid D. Fleming  
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 May 24, 2016.

Fond Du Lac County Department of Social Services  
Division of Health Care Access and Accountability

