



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

In the Matter of



**DECISION**  
Case #: MGE - 174224

**PRELIMINARY RECITALS**

Pursuant to a petition filed on May 6, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department regarding Medical Assistance (MA), a hearing was held on June 22, 2016, by telephone.

The issue for determination is whether the agency correctly denied Petitioner's application for institutional Medicaid because of ownership of assets in excess of Medicaid asset limits.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

**Petitioner:**



**Petitioner's Representative:**



**Respondent:**

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

By:   
Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Kenosha County.

2. Petitioner was notified that her Medicaid eligibility was to end June 1, 2016 because of ownership of assets in excess of \$2000.00.
3. In November 2015 the agency received a bank statement from Petitioner. It indicated a deposit of interest from savings bonds. Those bonds had not been reported to the agency. Verification was requested. The agency extended time for submission of that verification as Petitioner's daughter reported problems finding information about the bonds. Ultimately, Petitioner's daughter was able to report that the bonds were worth \$44,500.00.
4. As Petitioner's assets exceed \$2,000.00 the agency sent Petitioner a May 2, 2016 notice that informed her that her Medicaid eligibility was to end June 1, 2016.
5. Petitioner's representatives have filed a lost or stolen affidavit with the US treasury for the missing bonds. This was done in February 2016 but was rejected by Treasury as the notary seal was smudged. It was resubmitted again in late April 2016. The US Treasury has a backlog and cannot provide a date by which the bonds will be replaced.
6. Petitioner's benefits were continued pending this Decision.

### DISCUSSION

The Medicaid asset limit is \$2000.00. *Medicaid Eligibility Handbook (MEH)*, §39.4.1. Nonetheless, an asset has to be available to be counted. The MEH states:

...

Consider an asset as unavailable if **either**:

1. The member lacks the ability to provide legal access to the assets, and
2. No one else can access the assets, and
3. A process has been started to get legal access to the assets.

**Or,**

When the owner or owner's representative documents that the asset will not be available for 30 days or more, and the process has been started to obtain the assets.

...

*MEH*, §16.2.1.

I am concluding that the savings bonds were unavailable at the time of the discontinuance here. Of course, Petitioner's representatives have an obligation to report receipt of the bonds as soon as they are made available.

### CONCLUSIONS OF LAW

That the savings bonds involved here were unavailable at the time of the case closure thus Petitioner remains Medicaid eligible.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the agency with instruction to reverse the case closure that led to this hearing. This must be done within 10 days of the date of this Decision.

**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, **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 11th day of August, 2016

\s \_\_\_\_\_  
David 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 August 11, 2016.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability

