



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MGE/142300

PRELIMINARY RECITALS

Pursuant to a petition filed July 11, 2012, 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 in regard to Medical Assistance, a hearing was held on September 12, 2012, at Kenosha, Wisconsin.

The issue for determination was whether Petitioner's medical assistance was correctly discontinued because of assets in excess of program asset limits.

On September 27, 2012 the agency contacted the undersigned to report that this matter had been resolved and that the agency had determined that Petitioner's assets did not exceed the Medicaid asset limit. There is, however, no withdrawal from Petitioner thus the undersigned will proceed with a decision and order, albeit an abbreviated one.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Jesse Noyola

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 # [REDACTED]) is a resident of Kenosha County.

2. Petitioner was notified that his elderly, blind and disabled Medicaid was discontinued effective June 1, 2012 because of assets in excess of the Medicaid asset limits.
3. Petitioner receives Social Security disability benefits in the amount of \$1540.90 per month. In reviewing his case in June 2012 the agency determined that the balance of Petitioner's checking account was \$2885.43 and concluded that Petitioner had assets in excess of the \$2000 Medicaid asset limit.
4. The checking account statement that led to the conclusion noted at Finding # 3 was to be part of this record as Exhibit # 3. The DHA had no record of receipt of that exhibit from the agency so contacted the agency to ask for a copy. The agency indicated that this matter has been resolved and supplied the account statement as well as a letter indicating that a new deductible period starting August 1 with a spenddown of \$4975.98 has been established for Petitioner.

DISCUSSION

The circumstances noted in the Findings above seem to resolve this case but for one issue. The unused balance of prior medical expenses incurred by a person that were allowable for purposes of meeting prior Medicaid deductibles may continue to be used to meet the current deductible. *Medicaid Eligibility Handbook, §24.7.1*. Petitioner should certainly submit any a new medical expenses that he has incurred but the agency must also review its records and continue to use any of allowable prior medical expenses that have balances that have not been fully used for purposes of meeting Petitioner's Medicaid deductible.

If Petitioner disagrees with any of this decision he should note the rehearing instructions below.

CONCLUSIONS OF LAW

1. That unused balances of prior medical expenses allowable for a meeting a Medicaid may continue to be used for the purpose of meeting a current deductible.
2. That the asset base case closure has been reversed thus in all other respects this matter has been resolved.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with instructions to review medical expense records already submitted by Petitioner for purposes of meeting prior Medicaid spenddowns to determine whether balances remain that may be used to meet the current deductible as well as any additional medical expense records submitted by Petitioner and if those expenses exceed the spenddown amount to certify Petitioner for Medicaid eligibility. These steps must be concluded within 10 days of the date of this decision. Petitioner may appeal any of new determination he does not agree with.

As the agency has reversed the asset base case closure here, this matter is dismissed but for the application of medical expenses noted in the prior paragraph of this order.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 27th day of September, 2012

David D. Fleming
Administrative Law Judge
Division of Hearings and Appeals

c: Kenosha County Human Service Department - email
Department of Health Services - email



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 27, 2012.

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