



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MGE/142958

PRELIMINARY RECITALS

Pursuant to a petition filed August 8, 2012, under Wis. Stat., §49.45(5), to review a decision by Brown County Human Services to deny Medical Assistance (MA), a hearing was held on September 25, 2012, by telephone.

The issue for determination is whether petitioner's assets were over the limit in March, April, and May, 2012.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Jamie Chaudoir
Brown County Human Services
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) was a resident of Brown County. He died July 7, 2012.
2. An application for nursing home MA was filed on petitioner's behalf in June, 2012, seeking a backdate to March 1, 2012. The application was the third one filed; two earlier applications were denied with no appeal.

3. In March and April, 2012, petitioner had a bank account with a balance of approximately \$1,500 after subtracting monthly income deposits. The account balance rose to approximately \$4,300 in May because checks were not written in April to offset the income deposits that month.
4. Petitioner also held a life insurance policy with a face value of \$12,000 and a cash value of approximately \$1,600. On May 2, 2012, petitioner's son requested in writing that the policy be cashed in; a check for \$1,598 was received in early June, 2012.
5. In June a payment was made to the nursing home that reduced assets to approximately \$900.
6. By a notice dated June 27, 2012, the county granted MA effective June 1, 2012, but denied MA for March through May because assets were over the limit.

DISCUSSION

The MA asset limit for an individual is \$2,000. Wis. Stat., §49.47(4)(b)3m. If assets are above that limit, the person is not eligible for MA. The statute does not allow for outstanding debts to be deducted from assets, nor does it provide any exceptions for unusual situations. In determining the value of a bank account in a given month, the agency does not count income received in that month. MA Handbook, Appendix 16.1.0. Life insurance cash values are counted as assets if the face value is over \$1,500. Handbook, App. 16.7.5.

Throughout the three months in question the combination of the bank account and life insurance cash value put petitioner's assets over \$2,000. Although petitioner owed a large nursing home bill, the bill cannot be deducted from the assets for purposes of determining eligibility. Petitioner's son testified that it took a long while to get the insurance policy cashed in, but in reality it took only a month from the day that the policy was cancelled in writing. Up until then there were discussions concerning the amount of the cash value, but the time it took to determine cash value cannot be considered in determining the length of time it took to obtain the money.

I must conclude that the assets were over the MA limit in the months in question. The law does not allow me to make an exception or to use discretion to grant eligibility in situations like this one.

CONCLUSIONS OF LAW

The county correctly denied MA in March through May, 2012 because petitioner's assets were over the MA limit.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

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 Madison,
Wisconsin, this 1st day of October, 2012

Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals

c: Brown County Human Services - email
Department of Health Services - email



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 1, 2012.

Brown County Human Services
Division of Health Care Access and Accountability