



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MGE/143517

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 3, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the St. Croix County Department of Human Services in regard to Medical Assistance, a hearing was held on October 23, 2012, at New Richmond, Wisconsin.

The issue for determination is whether the county agency correctly determined that the petitioner's assets exceeded the medical assistance limit before July 2012 and that she failed to adequately verify her assets after that date.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Diane Peterson

St. Croix County Department of Human Services  
1445 N. Fourth Street  
New Richmond, WI 54017-1063

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of St. Croix County.
2. The petitioner applied for institutional medical assistance on July 19, 2012, and requested that her eligibility be backdated to April 1, 2012.

3. The county agency determined that the petitioner was eligible for medical assistance in June but not July 2012 or months prior to June 2012.
4. The petitioner's assets exceeded \$2,000 before June 2012.
5. The petitioner did not submit adequate information for the agency to determine her eligibility from July 2012 forward.
6. At the time of the hearing, the petitioner had time to reapply and receive benefits retroactive to July 1, 2012.

### **DISCUSSION**

The petitioner is a nursing home resident who on July 19, 2012, applied for institutional medical assistance retroactive to April 1, 2012. The agency found her ineligible for benefits for April and May 2012 because her assets exceeded the program's limit and for July 2012 forward because she did not adequately verify her assets; it found her eligible for June 2012.

A person cannot receive institutional medical assistance if her assets exceed \$2,000. Wis. Stat. §§ 49.46(1) and 49.47(4). Medical assistance eligibility can be made retroactive to "the first day of the month 3 months prior to the month of application." Wis. Admin. Code § DHS 103.08(1). The petitioner does not dispute that she had life insurance policies whose cash surrender value exceeded \$2,000 before June 2012. She points out that she was confused about the rules, which is understandable. Nevertheless, I must follow those rules as they are written and must find that she was ineligible before June 2012.

Medical assistance rules require recipients to verify various information, including assets. Wis. Admin. Code, § DHS 102.03(3) Agencies may deny applications if an applicant "is able to produce required verifications but refuses or fails to do so." within 10 days of the date they are requested..." *Medicaid Eligibility Handbook*, § 20.7.1.1. *see also* Wis. Admin. Code § DHS 102.03(1). On August 14, 2012, the agency requested that the petitioner provide the following verification:

1. Bill; Receipt or Bank Statement; or Pay Stub showing premium payment.
2. Credit Union or Bank Statement showing current balance; Statement from the financial institution or investment company; Trust Agreement; or Copy of Bonds.

The petitioner submitted some bank information, but the agency could not determine the level of her assets on any particular date, which made it impossible for it to determine if she spent the money derived from life insurance policies before the end of the month she cashed them in. It would be difficult for the average lay person to understand exactly what is being asked for in this request. The petitioner probably should have asked the agency worker for advice, but she did not realize that her information was inadequate. These circumstances do provide some basis for finding that she was not able to produce the required verifications and thus is still potentially eligible for benefits from July forward. However, remanding the matter for this purpose is unnecessary because she indicated that she would reapply with all of the necessary verifications by the end of October 2012. This would allow her to be eligible retroactive to July 2012, the first month in which she did not receive benefits and her assets may have been below \$2,000. Because she can become eligible for July 2012 forward by providing the agency with the same information she would have to provide if the current matter was remanded to the county agency, and those are the only months where her eligibility is still in question, the current matter as it relates to her eligibility during those months is now moot.

### **CONCLUSIONS OF LAW**

1. The petitioner is ineligible for medical assistance before June 2012 because her assets exceeded \$2,000.
2. The portion of the petitioner's appeal pertaining to benefits sought after June 2012 is moot because she has agreed to reapply for those benefits and provide the necessary verification before October 1, 2012.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is dismissed. Nothing in this decision prevents her reapplying and becoming eligible for benefits from July 1, 2012, forward.

### **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 served and 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, 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 14th day of November, 2012

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Michael D. O'Brien  
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 November 14, 2012.

St. Croix County Department of Human Services  
Division of Health Care Access and Accountability