



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MAP/143830

PRELIMINARY RECITALS

Pursuant to a petition filed September 17, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Columbia County Health & Human Services in regard to Medical Assistance, a hearing was held on November 16, 2012, at Portage, Wisconsin.

The issue for determination is whether the Department erred in its determination that petitioner is ineligible for MA due to excess assets, namely part-ownership of a trailer home that is used as a residence by her former significant other.

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: Melissa Duane

Columbia County Health & Human Services
2652 Murphy Rd
PO Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County.

2. Petitioner is joint owner of a trailer home with Mr. [REDACTED] [REDACTED]. Petitioner does not live in the trailer. [REDACTED] lives in the trailer.
3. Petitioner was at one time in a romantic relationship with [REDACTED]. The relationship has ended and the two are estranged.
4. Petitioner applied for the MAPP program.
5. The Department counted the trailer home as an available asset valued at \$51,500.
6. The Department denied eligibility due to petitioner being over the asset limit for MAPP.

DISCUSSION

The MAPP program allows disabled individuals to work but to retain eligibility for MA. Wis. Stat., §49.472; Medicaid Eligibility Handbook (“MEH”) § 26. If net income is below 250% of the federal poverty level, the person is eligible for the program. Wis. Adm. Code, §DHS 103.03(8)(b); MEH § 26.4.2. The asset limit for MAPP is \$15,000. Wis. Adm. Code, §DHS 103.03(8)(c), referring to Wis. Stat., §49.472(3)(b); Handbook, App. 26.4.1.

The facts in this case do not appear to be in dispute. The issue in this case is whether the trailer home is an available asset. The trailer is a “non -motorized trailer home” as set forth in Medicaid Eligibility Handbook (“MEH”) § 16.8.1.2. Such a trailer is considered real property. *Id.* The Department estimates the value of the trailer at \$51,500. That estimate is not in dispute and if considered an available asset the trailer property interest would place petitioner over the MAPP asset limit. Pursuant to MEH § 16.2.2, real property is unavailable as an asset if a joint owner refuses to sell the property.

In this case, [REDACTED] [REDACTED] lives in the trailer home. There is no dispute that petitioner and [REDACTED] have a difficult history including allegations of domestic abuse. For the purposes of this matter, the Department does not dispute such history or that petitioner lives in fear of [REDACTED]. There is also credible evidence that leads to a reasonable conclusion that [REDACTED] is unwilling to move from the trailer and is unwilling to sell his interest. It is notable that petitioner indicated that [REDACTED] lives in the trailer and pays no rent to petitioner. Many people would be unwilling to abandon such a beneficial living arrangement.

The Department offered no evidence to rebut petitioner’s position that [REDACTED] is unwilling to sell the trailer.

CONCLUSIONS OF LAW

The trailer is not an available asset. Therefore, it should not be counted as an asset for petitioner and should not be a basis for MAPP denial.

THEREFORE, it is

ORDERED

That this matter is remanded to the Department and its county agent with directions to reconsider petitioner’s July 30, 2012 application and redetermine eligibility for MAPP with the exclusion of the trailer asset from the determination as such asset is unavailable to petitioner. This action shall be completed within 10 days.

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 11th day of December, 2012

\sJohn P. Tedesco
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 December 11, 2012.

Columbia County Health & Human Services
Division of Health Care Access and Accountability