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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MGE/144952

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 30, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services in regard to Medical Assistance, a hearing was held on December 04, 2012, at Wausau, Wisconsin.

The issue for determination is whether the Department correctly denied the petitioner's application for MA due to excess assets.

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: Sherri Seubert

Marathon County Department of Social Services  
400 E. Thomas Street  
Wausau, WI 54403

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. On October 4, 2012, petitioner filed an application for Medicaid. Petitioner's checking account assets were listed as \$15,293.43. Exhibit 2, p. 5.

3. On October 18, 2012, the county agency mailed petitioner a negative notice stating that he was not enrolled in Medicaid as of October 1, 2012, because his assets were over the program limit. Exhibit 2, p. 2.
4. On October 30, 2012, petitioner filed a Request for Fair Hearing. Exhibit 1.

### DISCUSSION

Medicaid has program limits for assets, and those whose assets exceed the limit are ineligible for Medicaid. *Medicaid Eligibility Handbook 16.1*. For a household size of 2 (such as petitioner and his wife), total countable assets must be less than \$3,000 to be eligible for Medicaid. *Medicaid Eligibility Handbook 39.4.1*.

The eligibility statute is absolute in its requirement that a single person with more than \$2,000 in countable assets, or a person in a married couple with more than \$3,000 in countable assets, be found ineligible. Wis. Stat. §49.47(4)(b). See also *MA Eligibility Handbook (MEH)*, Table 39.4 (EBD) online at <http://www.emhandbooks.wi.gov/meh-ebd/>.

Respondent explained that included among petitioner's counted assets is a checking account with Bank of America. Savings and checking accounts are countable assets. *MEH* § 16.1.

Petitioner objected indicating that (1) the checking account is held jointly with his son, and (2) the funds in that account constitute a loan from his son.

The Medicaid rules, however, instruct that,

When an EBD Medicaid applicant/member shares an account with an individual or individuals who are not EBD Medicaid applicant(s)/member (s) deem the full share to the EBD Medicaid applicant/member.

Full share" means an amount equal to the account balance. The account balance is the total of the principle and any interest retained in the account, minus any withdrawal penalties or charges.

Applying the preceding policy may result in considering available to a fiscal test group more money from a joint account than is actually in that account. If that occurs, deem an equal share to each account holder who is in the fiscal test group.

*MEH* § 16.4.1.2.

As to the allegations regarding the funds constituting a loan, the rules specify that,

If an AG [assistance group] member receives a loan and it is available for current living expenses, count it as an asset. Do this even if there is a repayment agreement. If it is not available for current living expenses, disregard it.

*MEH* § 16.7.2. Petitioner submitted to the respondent a letter from his son, dated June 10, 2012, which indicated that he had lent his parents money to "use if an unforeseen emergency occurs." Exhibit 2, p. 10. Despite the fact that certain monies were lent to petitioner, respondent properly counted those as liquid assets that were available to him.

As explained to petitioner at the Fair Hearing, if his assets have since decreased to the point that they no longer exceed the asset limit, he may reapply, and qualify for November benefits. Respondent indicated, however, that petitioner would not be eligible for October benefits, as his assets at the end of October exceeded the program limits.

I have reviewed the record, and cannot find any error on the part of respondent in determining that petitioner was ineligible for MA benefits due to assets exceeding program limits.

**CONCLUSIONS OF LAW**

The county agency correctly denied petitioner's July 22, 2008 Medicaid application because his assets exceeded the Medicaid program limit.

**NOW, THEREFORE, it is ORDERED**

That the petition be 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 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 January, 2013

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\sPeter McCombs  
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 January 11, 2013.

Marathon County Department of Social Services  
Division of Health Care Access and Accountability