



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MAP/145277

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 16, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on December 12, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's Medicaid Purchase Plan (MAPP) eligibility may be reversed thereby allowing him to have eligibility for the Wisconsin Funeral and Cemetery Aids Program (WFCAP).

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: Katherine May  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) was a resident of Milwaukee County.
2. Petitioner had been a recipient of Social Security Disability Income (SSDI) and only eligible for Medicaid with a deductible. His SSDI income was \$1119 so he would have had a Medicaid

deductible or spenddown of approximately \$3045 every six months in order to receive Medicaid benefits in that six month period.

3. On August 29, 2012 the agency received a letter from Petitioner's daughter that indicated that Petitioner provided child care for her daughter for 10 hours per week in exchange for transportation to the store. The case was then updated and Petitioner enrolled in the Medicaid Purchase Plan (MAPP) program effective November 1, 2012.
4. Petitioner passed away on November 9, 2012.
5. With Petitioner's passing, his family contacted the agency seeking Wisconsin Funeral and Cemetery Aids Program (WFCAP) benefits for Petitioner's funeral expenses. That request was denied because Petitioner was enrolled in the MAPP program.

### **DISCUSSION**

The Wisconsin Funeral and Cemetery Aids Program (WFCAP) will not reimburse a family for funeral expenses for an individual who was on the date of death eligible for or qualified for, among other programs, MAPP benefits. *Wisconsin Funeral and Cemetery Aids Program (WFCAP) Manual, §1.2.*

The Medicaid Purchase Plan (MAPP) is a subprogram of the Wisconsin Medicaid Program. It allows disabled people who are working or want to work to become or remain Medicaid eligible, even if employed, since there are higher income limits. *Medicaid Eligibility Handbook, §26.1.*

Petitioner had been eligible for Medicaid only upon meeting a deductible. While the precise amount of the deductible is not in the record; as noted above, it was approximately \$3045.00.

When a person receives SSI they are typically eligible for Medicaid (MA). That is not true for recipients of Social Security Disability Income or retirement income; while the elderly and disabled are typically nonfinancially eligible for MA those individuals must still meet financial requirements. *See generally §49.47, Wis. Stats.*

When a person's income is over the Medicaid income limit a Medicaid deductible, also known as a spenddown, must be met before eligibility begins, See *Wis. Stats., §49.47(4)(c)2; Wis. Admin. Code, § DHS 103.08(2)(a) and Medicaid Eligibility Handbook (MEH), §§24.1 & 24.2.* The MA income limit for a one or two person household is \$591.67. See *MEH, §39.4.1.* MA deductibles are calculated for six-month periods. See *Wis. Admin. Code, § DHS 103.08(2)(c) and MEH, §20.2.0.* The deductible is met by incurring medical expenses that equal the dollar amount of the deductible. *MEH, §24.2.*

Petitioner apparently enrolled in the MAPP program in order to have Medicaid coverage without a deductible. His family would like to reverse the MAPP coverage so as to have the Wisconsin Funeral and Cemetery Aids Program benefit. There is, however, no procedure or policy permitting this. Further, the Division of Hearings and Appeals that the Division does not possess equitable powers. *See, e.g., Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977).* The Division of Hearings and Appeals must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Accordingly, the Division of Hearings and Appeals does not have authority under law to create a procedure for reversing the MAPP eligibility. I also note that there would be unknown ramifications to the reversal even if it were possible; e.g., the re-instatement of a deductible.

### **CONCLUSIONS OF LAW**

That there is no law or policy that permits reversal of MAPP eligibility so as to make petitioner eligible for the Wisconsin Funeral and Cemetery Aids Program.

**THEREFORE, it is**

**ORDERED**

That this appeal is 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 Milwaukee,  
Wisconsin, this 4th day of February, 2013

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\sDavid D. Fleming  
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 February 4, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability