



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

CWA/145785

PRELIMINARY RECITALS

Pursuant to a petition filed December 05, 2012, under Wis. Admin. Code § HA 3.03, to review a decision by the St. Croix County Department of Human Services in regard to Medical Assistance, a hearing was held on January 22, 2013, at New Richmond, Wisconsin.

The issue for determination is whether the petitioner's assets exceed the medical assistance limit.

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: Angie Magoon

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 has been receiving medical assistance under the spousal impoverishment provisions of the program.
3. The petitioner did not transfer her assets into her husband's name within one year of being found eligible for medical assistance under the spousal impoverishment provisions of the program.

4. The petitioner's assets exceed \$2,000.

DISCUSSION

The petitioner lives with her husband in the community but is considered institutionalized because she is in one of the MA Waiver programs. *See Medicaid Eligibility Handbook*, § 18.2.3. Generally, a person cannot be eligible for medical assistance if her assets exceed \$2,000. Wis. Admin. Code, § DHS 103.06(1)(a); Wis. Stat. § 49.47(4)(b)3g. However, the medical assistance program contains special spousal impoverishment provisions that increase this limit so that a person does not fall into poverty when his spouse becomes institutionalized. *See* Wis. Stat. § 49.455 and 42 U.S.C. § 13964-5. The petitioner qualifies for this program, but its benefits apply only if the spouse considered institutionalized transfers her assets to the community spouse within one year. *Medicaid Eligibility Handbook*, § 18.4.6.1. The petitioner could not transfer a boat into her husband's name, probably because they still owe \$20,000 on it and the lender would not remove her name from the loan. This means that her asset limit is \$2,000, an amount that is exceeded by half of their equity in the boat alone. I pointed out that she could become eligible if she sold the boat and paid bills with the proceeds. She stated that she would not do that because she uses the boat. She can make this choice, but because she has, the law requires me to find that her assets make her ineligible for medical assistance.

CONCLUSIONS OF LAW

1. The petitioner is not entitled to protection from the spousal impoverishment provisions of the medical assistance program because she did not transfer her assets into her husband's name within one year.
2. The petitioner is ineligible for medical assistance because her assets exceed \$2,000.

THEREFORE, it is

ORDERED

The petitioner's 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 Madison,
Wisconsin, this 23rd day of January, 2013

\sMichael 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 January 23, 2013.

St. Croix County Department of Human Services
Bureau of Long-Term Support