



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

MGE/145935

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 12, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Rock County Department of Social Services in regard to Medical Assistance (MA), a hearing was held on February 26, 2013, at Janesville, Wisconsin. A hearing set for February 7, 2012, was rescheduled at the petitioner's request .

The issue for determination is whether the agency correctly discontinued the petitioner's Institutional MA due to excess assets.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
By: [REDACTED], daughter  
[REDACTED]

Respondent:

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

By: Sherry Quirk, Lead ES Supr.  
Rock County Department of Social Services  
1900 Center Avenue  
PO Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

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

2. The petitioner had an ongoing Institutional MA case as a single person, prior to November 1, 2012. On September 25, 2012, the petitioner reported to the agency that her residence had been sold. The petitioner's net sale proceeds were \$35,766.99, which exceeds the \$2,000 limit on non-exempt assets.
3. On October 19, 2012, the Department issued written notice to the petitioner advising that her Institutional MA would be discontinued effective November 1, 2012. The basis for discontinuance was excess assets.
4. The petitioner's checking account balance remained above \$2,000 from at least November 1, 2012, through the date of this hearing.

### DISCUSSION

A single applicant for/recipient of Institutional/Elderly-Blind-Disabled MA has to satisfy nonfinancial and financial tests to be found eligible. The petitioner has passed the nonfinancial tests. The agency has concluded that she has not passed the asset test, which is that a single person cannot have nonexempt assets exceeding \$2,000. Wis. Stat. §49.47(4)(b)3g; *Medicaid Eligibility Handbook (MEH)*, § 39.4.1, available at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>.

There is no disagreement that the petitioner's liquid assets (checking, savings account, etc.) exceeded \$2,000 from at least November 2012 through January 31, 2013. That exceeds the limit. The petitioner did not supply documentation at hearing to show that her assets dropped below \$2,000 before the agency discontinued her case. Her representative did not dispute that the assets exceeded \$2,000 from November 2012 through January 2013. Thus, the agency's discontinuance was correct.

The petitioner's representative testified that the petitioner now has a \$17,000 bill owing to her nursing home. Although the petitioner was incurring nursing home bills in November, December and January, the MA statute does not allow me to consider the petitioner's "net equity" (assets versus unpaid bills). Rather the statute is a simple declaration that a person cannot have assets over the limit:

**(4) ELIGIBILITY.**

**(a) ...**

**(b) Eligibility exists if the applicant's property, subject to the exclusion of any amounts under the ... federal Social Security Act, does not exceed the following:**

**1.** Subject to par. (bc), a home and the land used and operated in connection therewith or in lieu thereof a manufactured home or mobile home if the home ...is used as the person's or his or her family's place of abode.

**2.** Household and personal possessions.

**2m.** One or more motor vehicles as specified in this subdivision.

...

**3.** For a person who is eligible under par. (a) 3. or 4., funds set aside to meet the burial ...

**3g.** Liquid assets for a single person limited to:

**a.** In 1985, \$1,600.

**b.** In 1986, \$1,700.

**c.** In 1987, \$1,800.

**d.** In 1988, \$1,900.

**e.** After December 31, 1988, \$2,000.

Wis. Stat. § 49.47(4)(b)3g [*emphasis added*]. This Division has issued decisions for over 25 years that always declare that asset "net equity" cannot be considered. Therefore, I cannot consider net equity here.

At hearing, it was suggested that the petitioner may wish to consider promptly paying her nursing home bill to bring her assets under \$2,000, and to then file a new MA application.

**CONCLUSIONS OF LAW**

1. The county agency correctly discontinued the petitioner's Institutional MA effective November 1, 2012, due to her ownership of non-exempt assets exceeding \$2,000 at that time.

**THEREFORE, it is**

**ORDERED**

That the petition 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 27th day of February, 2013

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\sNancy J. Gagnon  
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 27, 2013.

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