



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MAP/147698

PRELIMINARY RECITALS

Pursuant to a petition filed February 28, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Dane County Department of Human Services in regard to Medical Assistance (MA)/ Medicaid Purchase Plan (MAPP, a Medical Assistance variant), a hearing was held on April 2, 2013, at Madison, Wisconsin.

The issue for determination is whether the petitioner is MAPP eligible from April 1, 2013 onward.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] (telephonically)

[REDACTED]
[REDACTED]

Respondent:

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

By: Ms. Terry Donnelly, ESS
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]), age 63, is a resident of Dane County.
2. The petitioner was hospitalized at St. Mary's, Madison, on February 12, 2013, for treatment of metastatic cancer. He filed an Elderly/Blind/Disabled MA application, along with the

Presumptive Disability sub-application and MADA, on February 15, 2013. The county agency determined that he was eligible for MAPP for the month of February 2013.

3. In mid-March, the agency became concerned that the petitioner would have to be evaluated as an Institutional/Long-Term Care MA case because it believed that he had been hospitalized for over 30 days. For an Institutional MA case, divestment of assets during the last five years has a negative effect on eligibility. The petitioner transferred farm land valued at \$10,000 to his brother in April 2012. The agency determined that this created a 46-day divestment penalty period beginning March 1, 2013, and so advised the petitioner. The petitioner then filed this hearing request, and aid was continued pending this appeal. An MA Undue Hardship Waiver request was given to the petitioner after March 1, 2013, but he did not return that document to the agency.
4. The petitioner returned to his home for further rehabilitation on March 18, 2013. He continues to do a small amount of self-employment activity. Based on the new information that he had returned home, the agency worker agreed to re-open the petitioner's MAPP eligibility effective April 1, 2013.

DISCUSSION

The MAPP program allows disabled individuals to work but to retain eligibility for Medical Assistance (MA). Wis. Stat. §49.472; *MA Eligibility Handbook (MEH)*, 5.10 & 26.1 – 26.7, online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. Income and asset eligibility is determined using general MA rules, with the exception that a higher, \$15,000 non-exempt asset limit, and a higher income limit, are used. Wis. Admin. Code, §DHS 103.04(8); Wis. Stat. §49.472(3)(b). MAPP rules require the department to utilize Supplemental Security Income (SSI) regulations to determine what income and assets are counted, disregarded, or exempt. Wis. Stat., §49.47(4)(c), Wis. Admin. Code, §DHS 103.05(8)(b).

As of March 18, 2013, the petitioner was no longer institutionalized and had returned home for rehabilitation and resumption of his self-employment. Therefore, the agency correctly re-opened his MAPP eligibility.

CONCLUSIONS OF LAW

1. The agency correctly agreed to re-open the petitioner's MAPP eligibility, as the petitioner is no longer institutionalized.

THEREFORE, it is

ORDERED

That the petition is remanded to the agency with instructions to re-open the petitioner's MAPP eligibility, within 10 days of the date of this decision, if it has not already done so. In all other respects, 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 8th day of April, 2013

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 8, 2013.

Dane County Department of Human Services
Division of Health Care Access and Accountability