



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/148284

PRELIMINARY RECITALS

Pursuant to a petition filed March 23, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on May 23, 2013, at West Bend, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's request to backdate MA eligibility for November, 2012 – January, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Kenneth Benedum
Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. On November 30, 2012, an application for MA was submitted on the Petitioner's behalf by her son.

3. On February 1, 2013, the agency issued a Notice of Decision to the Petitioner's son informing him that the application of November 30, 2012 was denied because assets of the Petitioner were over the asset limit. The agency noted assets as of January, 2013 included a life insurance policy with a face value of \$4000 and a cash value of \$2048 as of January 15, 2013.
4. On February 5, 2013, the Petitioner surrendered the life insurance policy.
5. On February 18, 2013, the Petitioner's son re-applied for MA for the Petitioner.
6. On March 14, 2013, the agency issued a Notice of Decision to the Petitioner's son informing him that the Petitioner is eligible for MA effective February 1, 2013 with a monthly cost share of \$1,349.72. The request for eligibility to begin November 1, 2012 was denied.
7. On March 23, 2013, the Petitioner's son filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The MA asset limit is \$2,000.00. Wis. Stat. § 49.47(4)(b)3g.e.; see also, Wis. Admin. Code § DHS 103.04(2) & Medicaid Eligibility Handbook (MEH) § 39.4. Petitioner's representative does not argue that Petitioner was under the \$2,000 MA asset limit for November, 2012 – January, 2013. The Petitioner's life insurance policy had a cash value of \$2,058 and the Petitioner had a checking account with \$500. Petitioner's representative testified that Petitioner went under \$2,000 in assets on February 5, 2013 when she surrendered her life insurance policy. The Petitioner's representative testified that he was not aware of the life insurance policy's cash value when he submitted the application on November 30, 2012. Despite conceding that the Petitioner was over the asset limit for the period of November, 2012 – January, 2013, the Petitioner's representative requests that eligibility be backdated to November 1, 2012.

Relevant portions of the Medicaid Eligibility Handbook are as follows:

Medicaid eligibility begins the first day of the month in which the valid application is submitted *and all program requirements are met*.

MEH, § 2.8.1. (Emphasis added).

If certifying for retroactive Medicaid, do not go back further than the first of the month, three months prior to the application month. Certify the person for any backdate month *in which s/he would have been eligible* had s/he applied in that month.

A person's asset eligibility in a backdate month is determined by whether or not s/he had excess assets on the last day of the month. *If s/he had excess assets on the last day of the month, s/he is ineligible for the entire month*. If s/he was asset eligible on the last day of the month, s/he is eligible for the whole month.

MEH, § 2.8.2. (Emphasis added).

There is no dispute that the Petitioner was over the asset limit for November, 2012 – January, 2013. It is not relevant whether the Petitioner's son was aware of the cash value of the policy. The asset was there and available to the Petitioner and therefore must be considered. She was not under the asset limit until February 5, 2013. Therefore, she is not eligible for backdating to November 1, 2012. The agency was correct to begin Petitioner's MA eligibility effective February 1, 2013 and not earlier than that date.

CONCLUSIONS OF LAW

The Petitioner was not eligible for MA in November, 2012 – January, 2013 because she was over the asset limit. The agency was correct to begin eligibility on February 1, 2013.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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 21st day of June, 2013

\sDebra Bursinger
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 June 21, 2013.

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