



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/148431

PRELIMINARY RECITALS

Pursuant to a petition filed March 28, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Eau Claire County Department of Human Services in regard to Medical Assistance, a hearing was held on May 21, 2013, at Eau Claire, Wisconsin.

The issue for determination is whether a payment the petitioner made to the Estate Recovery Program to maintain his eligibility for medical assistance can be refunded so that he can pay other medical costs incurred after he made the payment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: T.J Adkins

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.

2. The petitioner receives medical assistance through the Family Care Program.
3. The petitioner's assets exceeded the program's limit. In order to bring those assets below the \$2,000 limit, he paid \$3,134 to the Estate Recovery Program in February 2013.
4. After he made a payment to the Estate Recover Program, the petitioner incurred various medical expenses. On March 28, 2013, he requested that the payment be refunded so that he could pay those expenses.

DISCUSSION

A person generally cannot receive medical assistance if his assets exceed \$2,000. Wis. Admin. Code, § DHS 103.06(1)(a); Wis. Stat. §§ 49.46(1) and 49.47(4). If the person's assets exceed \$2,000, he can become eligible by applying "assets as a refund of MA benefits to the department." Wis. Admin. Code, § DHA 103.06(1)(e). The petitioner's daughter discovered that he had previously unknown assets in November 2012. After some communication with the county agency, she sent a check for \$3,134 to the Department's Estate Recovery Program in February 2013. Later, the petitioner incurred some medical expenses, including some that occurred because he went to a provider whose services were not covered by Medicare. On March 28, 2013, his daughter sent a letter to the Estate Recovery Program requesting that it refund the \$3,134. It refused to do so.

I find no authority for requiring the Department to refund money paid to it under Wis. Admin. Code, § DHA 103.06(1)(e). Furthermore, if it did refund the money, it would have the effect of making that money attributable to the petitioner throughout the time in question. While the record is vague, it appears that the county agency allowed the petitioner to remain eligible for over two months while his assets exceeded the program's limit. If the money were refunded, the petitioner could become ineligible for medical assistance back to November 2012, which would leave him with at least a five-figure bill for his medical care during that period.

CONCLUSIONS OF LAW

There is no legal authority for returning the petitioner's voluntary payment to the Department made so that he could remain eligible for medical assistance.

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 6th day of June, 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 June 6, 2013.

Eau Claire County Department of Human Services
Division of Health Care Access and Accountability