



FH  
[REDACTED]

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

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In the Matter of

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

DECISION

MGE/148533

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 5, 2013, under Wis. Stat., §49.45(5), to review a decision by the Manitowoc County Dept. of Human Services to deny Medical Assistance (MA), a hearing was held on May 29, 2013, by telephone. A hearing set for May 21, 2013 was rescheduled at the petitioner's request.

The issue for determination is whether the county correctly denied MA because assets were over the limit.

**PARTIES IN INTEREST:**

Petitioner:

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

Petitioner's Representative:

Atty. David J. Pawlowski  
Salutz & Salutz, LLP  
P.O. Box 187  
Manitowoc, WI 54221-0187

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703  
By: Lori Baranczyk  
Manitowoc County Dept. of Human Services  
3733 Dewey Street  
Manitowoc, WI 54221-1177

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. An application for nursing home MA was filed on petitioner's behalf on December 14, 2012. Petitioner's daughter was handling the application with Atty. Pawlowski because petitioner was unable to handle her own affairs. The application did not list assets because they were unknown

to the representatives but Atty. Pawlowski informed the county worker that they were attempting to compile asset information.

3. Several extensions for compiling asset information were granted. On February 13, 2013 petitioner's representatives filed verification of stock holdings, bank accounts, and two annuities (it later was discovered that there was only one annuity and the other was life insurance).
4. On February 21, 2013, the county notified petitioner that MA was denied because assets were over the limit. At that point the known assets were stocks worth \$7,771, the annuities valued at \$2,648, and a checking account of \$975. Petitioner also owned a home that was exempt because it was being rented.
5. A new MA application was filed on March 27, 2013.
6. The stocks were sold in March and the proceeds were put in petitioner's bank account. On May 1, 2013 a funeral trust was established with the proceeds.
7. As of May 28, 2013, the annuity had a cash surrender value of \$1,323.77 and the life insurance policy had a cash surrender value of \$846.75. The face amount of the life insurance is \$1,000.

### DISCUSSION

The MA asset limit for an individual is \$2,000. Wis. Stat., §49.47(4)(b)3m. If assets are above that limit, the person is not eligible for MA. The statute does not allow for outstanding debts to be deducted from assets, nor does it provide any exceptions for unusual situations. In determining the value of a bank account in a given month, the agency does not count income received in that month. MA Handbook, Appendix 16.1.0. Life insurance cash values are counted as assets if the face value is over \$1,500. Handbook, App. 16.7.5.

After reviewing the evidence, I conclude that petitioner is ineligible for MA until at least May, 2013. Prior to May 1 she had assets over \$2,000. It does not matter that she now owes the nursing home approximately \$50,000 because debts cannot be used to offset the assets.

We know now that one of the "annuities" actually is a life insurance policy with a face value of \$1,000, and thus its cash value would not be counted. However, petitioner owned stock and later the stock proceeds of over \$7,000 through the month of April, 2013, so the misunderstanding concerning the life insurance did not affect eligibility. If the annuity cash value plus the bank account are less than \$2,000 in May, 2013, petitioner would be eligible beginning May 1.

### CONCLUSIONS OF LAW

The county correctly denied nursing home MA because petitioner's assets were over the \$2,000 limit.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 5th day of June, 2013

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\sBrian C. Schneider  
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 5, 2013.

Manitowoc County Department of Human Services  
Division of Health Care Access and Accountability  
[dpawlowski@salutzlaw.com](mailto:dpawlowski@salutzlaw.com)