



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/148830

PRELIMINARY RECITALS

Pursuant to a petition filed April 18, 2013, 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, a hearing was held on May 20, 2013, at Janesville, Wisconsin.

The issue for determination is whether the petitioner's assets exceed the medical assistance limit.

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: Sherry Quirk

Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. The petitioner and DS applied for medical assistance, which the county agency denied on April 17, 2013, after determining that their assets exceeded \$3,000.00.
3. Petitioner and DS are disabled adults.

4. The petitioner's household has two life insurance policies, with attributable face values of \$5,000.00 (petitioner) and \$9,200.00 (DS). The cash value of the policies is \$1,632.85 and \$1,959.55, respectively.
5. Petitioner and DS own a home with an estimated value of \$100,000.00, an automobile with a value of \$5,000.00. The petitioner has \$1,665.87 in a checking account, and a de minimus amount in a savings account.

DISCUSSION

The asset limit for the Medicaid Standard Plan is \$2,000 for one person or \$3,000 for a married couple. Wis. Admin. Code, § DHS 103.06(1)(a); Wis. Stat. §§ 49.46(1) and 49.47(4). The value of petitioner's home and vehicle are excluded from the asset determination. The petitioner has a bank account with \$1,665.87 and two life insurance policies whose present cash value exceeds \$3,000. Eligibility depends upon whether these policies are considered available assets. The regulation in Wis. Admin. Code, § DHS 103.06(10), provides the following instructions on determining whether a life insurance policy is considered an asset:

The cash value of a life insurance policy shall be considered an asset, except that for SSI-related persons it is an asset only when the total face value of all policies owned by the person exceeds \$1,500. In this subsection, "cash value" means the net amount of cash for which the policy could be surrendered after deducting any loans or liens against it, and "face value" means the dollar amount of the policy which is payable on death.

Similarly, the *Medicaid Eligibility Handbook*, § 16.7.5, which provides the policy interpreting this provision states:

Face value is the basic death benefit of the policy exclusive of dividend additions or additional amounts payable because of accidental death or under other special provisions. Cash value means the net amount of cash for which the policy could be surrendered after deducting any loans or liens against it.

Count the cash value of all life insurance policies. For persons age 65 or over, blind or disabled, count it only when the total face value of all policies owned by each person exceeds \$1,500. Do this calculation for each EBD person. In determining the face value, do not include any life insurance which has no cash value.

The petitioner's household's two insurance policies have face values of \$1,632.85 and \$1,959.55. Because the respondent found that both have value, and their combined face values exceed \$1,500, it counted the value of the policies against the petitioner's household asset limit and found her ineligible for benefits. The petitioner contends that the \$1,632.85 policy has been cancelled, though the record does not indicate when this occurred.

I find that the respondent's April 17, 2013 determination that petitioner's household assets exceeded program limits is correct. However, in light of the cancellation of petitioner's \$1,632.85 policy, petitioner is encouraged to reapply for benefits.

CONCLUSIONS OF LAW

The petitioner's counted assets exceed \$3,000.00.

THEREFORE, it is

ORDERED

That the petitioner for review 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 6th day of June, 2013.

\sPeter McCombs
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 June 6, 2013.

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