



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/149859

PRELIMINARY RECITALS

Pursuant to a petition filed June 07, 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 July 08, 2013, at Janesville, Wisconsin.

The issue for determination is whether respondent correctly determined that petitioner is eligible for Medical Assistance (MA) benefits only after her medical bills meet or exceed a spenddown deductible.

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: Ryan Booth

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. On May 22, 2013, the respondent issued a Notice to the petitioner informing her that she was not eligible for Medicaid Purchase Plan (MAPP) benefits because she was not working, in Health

- Employment Counseling, or exempt from work. The notice further indicated that petitioner and her husband were not eligible for Medicare Premium Assistance (SLMB) because her household income exceeded program limits. Exhibit 2.
3. The May 22, 2013 Notice further explained that petitioner and her husband could become MA eligible by meeting a deductible. Exhibit 2.
 4. The petitioner's monthly income (Social Security benefits) is \$527.00, and petitioner's husband's income (Social Security benefits) is \$1,255.00. Gross monthly household income is \$1,782.00. Exhibit 2.
 5. On June 7, 2013, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the determination that petitioner and her husband would need to meet a deductible in order to be eligible for MA.

DISCUSSION

When an applicant's income is over the MA limit, an MA deductible, also known as a "spenddown", must be met before eligibility begins. Wis. Stat. § 49.47(4)(c)2; Wis. Admin. Code § DHS 103.08(2)(a); Medicaid Eligibility Handbook, § 24.2. The "medically needy" income limit for a one-person household is \$591.67. Medicaid Eligibility Handbook, § 39.5. **MA deductibles are calculated for six-month periods.** That is the only time period for such eligibility. A new deductible is then established for the next six months. Wis. Admin. Code § DHS 103.08(2)(c); Medicaid Eligibility Handbook, § 24.3. The deductible is computed by multiplying the excess of countable monthly income over the income limit, by the six months in the deductible period. See, Medicaid Eligibility Handbook, 24.3. I have reviewed the agency determination, and I do not find any error.

Nor has the petitioner specifically pointed to any error. Petitioner argues simply that she cannot afford paying out-of pocket. At present, the petitioner is not eligible for MA. If she incurred or paid medical expenses that would meet the applicable deductible, the petitioner should report the expenses to the county agency and verify such bills immediately. In addition, at this juncture she may be entitled to choose the month to begin the six month deductible period. See, Medicaid Eligibility Handbook, § 24.3. She would be well-advised to consult with an agency worker about the best month to choose for her individual case and medical bills.

The petitioner has, in effect, argued that the program standard is unfair and that the administrative law judge should grant her relief from the program requirements. I empathize with her situation, but note that it is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, she is not eligible without meeting a deductible; no exception applies here, and I am without any equitable (fairness) powers to direct any remedy beyond the remedies available under law.

CONCLUSIONS OF LAW

That the county agency correctly determined that the petitioner's household was ineligible for MA, and that she must meet a spenddown deductible to become eligible for MA.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be, and the same 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 Madison,
Wisconsin, this 5th day of September, 2013.

\sPeter McCombs
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 September 5, 2013.

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