



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/150132

PRELIMINARY RECITALS

Pursuant to a petition filed June 19, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Sauk County Department of Human Services in regard to Medical Assistance, a telephone hearing was held on August 06, 2013.

The issue for determination is whether the respondent correctly determined that the petitioner must meet a deductible before receiving medical assistance.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jody Simon

Sauk County Department of Human Services
505 Broadway, 4th Floor
PO Box 29
Baraboo, WI 53913

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. The petitioner receives income of \$1,265.00 from Social Security each month.

3. The county agency determined that the petitioner cannot receive medical assistance until he meets a six-month deductible in the amount of \$3,919.98.

DISCUSSION

A deductible applies to a person who is defined by the medical assistance program as “medically needy.” A person is medically needy if he meets only the program’s non-financial conditions. Wis. Admin. Code § DHS 101.03(97). The petitioner meets the program’s non-financial conditions because he is elderly, blind, or disabled. If a person is medically needy, he must pay a deductible if his net income exceeds that allowed for medical assistance. *See* Wis. Stats. § 49.47(4)(c)2; Wis. Admin. Code § DHS 103.08(2)(a). The income limit, \$591.67 for a one or two-person household, is determined by a complex formula found in Wis. Stat. § 49.47(c)(1). *See also Medicaid Eligibility Handbook*, § 39.4. The amount of the deductible is determined for a six-month period, and must be paid toward medical expenses before the person becomes eligible for any medical assistance benefits. Wis. Admin. Code § DHS 103.08(2)(c).

The petitioner receives \$1,265.00 each month in social security. After subtracting the general disregard that all elderly, blind, and disabled persons are entitled to, his net monthly income is \$1,245.00. *See Medicaid Eligibility Handbook*, § 15.3.8. This exceeds \$591.67 by \$653.33. Multiplying \$653.33 by six (months) equals \$3,919.98, the same amount the respondent determined he must incur in medical expenses before meeting his medical assistance deductible.

The petitioner argued that his COBRA benefits were dropped at the end of May, as petitioner could not afford them any longer. The petitioner also provided a letter from his provider which argued that the petitioner’s medical conditions mandate that he receive regular care and medication. I certainly empathize with the petitioner’s situation, but I have no equitable powers that would allow me to consider the fairness of the situation; I can only apply the law as it is written. Therefore, I must find that the respondent correctly determined petitioner’s deductible, and uphold its decision. If the petitioner disagrees with this decision he may appeal it to a circuit court, which does have equitable powers.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner must pay a \$3,919.98 deductible before being 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 16th 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 16, 2013.

Sauk County Department of Human Services
Division of Health Care Access and Accountability