



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/150284

PRELIMINARY RECITALS

Pursuant to a petition filed June 26, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Chippewa County Department of Human Services in regard to Medical Assistance, a hearing was held on August 20, 2013, at Chippewa Falls, Wisconsin.

The issue for determination is whether a loan the petitioner took against her house is an available asset that puts her total assets over 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: Kelly Goettl

Chippewa County Department of Human Services
711 N. Bridge Street
Chippewa Falls, WI 54729-1877

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Chippewa County.
2. The petitioner and her husband had \$16,877 in assets other than real property and one of their cars. Of these assets, \$15,142.18 is a lump sum borrowed against her house.

3. The county agency ended the petitioner's eligibility for medical assistance as of May 1, 2013, because her assets exceeded the program's limit.

DISCUSSION

Someone in a two-person household cannot receive medical assistance if her household's non-exempt available assets exceed \$3,000. Wis. Stat. § 49.47(4)(b)3m.e. *Medicaid Eligibility Handbook*, § 16.2.1. Homestead property and the first vehicle are exempt. Additional vehicles are not. Wis. Admin. Code, §§ DHS 103.06(1)(b) and (2)(c)3. The county agency determined that the petitioner had \$16,877 in countable assets and found her ineligible as of May 1, 2013. These assets included a \$15,142.18 lump sum that was obtained by borrowing against the value of her house. The petitioner contends that this money is exempt as a reverse mortgage

Medical assistance policy found at *Medicaid Eligibility Handbook*, § 16.7.2.1., gives the following instructions on how to treat a reverse mortgage.

A reverse mortgage loan is a loan, or an agreement to lend, which is secured by a first mortgage on the borrower's principal residence. The terms of the loan specify regular payments to the borrower. Repayment (through sale of the residence) is required at the time all the borrowers have died, or when they have sold the residence or moved to a new one.

Treat reverse mortgage loan payments to the borrower as assets in the month received and thereafter. Do not count undisbursed funds (not yet paid to the borrower) as assets. They are considered equity in the borrower's residence.

In the petitioner's case, all of the funds have been disbursed. Therefore, they must be counted as an asset. Because this asset alone exceeds \$3,000, she is ineligible for medical assistance. As was pointed out at the hearing, she can regain her eligibility by paying this money toward her mortgage. In addition, she can take out a reverse mortgage that makes regular payments to her, as long as those payments do not push her total assets over \$3,000.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner was eligible for medical assistance because she is a married person whose household assets exceed \$3,000.

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 1st day of October, 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 October 1, 2013.

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