



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/151090

PRELIMINARY RECITALS

Pursuant to a petition filed July 30, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance, a telephone hearing was held on September 09, 2013, at La Crosse, Wisconsin.

The issue for determination is whether the respondent correctly terminated petitioner's EBD (Elderly, Blind, Disabled) Medicaid effective July 1, 2013.

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: Tom Miller

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. In March, 2013, J.R. contacted the respondent and reported that she and the petitioner had married.

3. On June 4, 2013, respondent sent written notice indicating that petitioner's EBD Medicaid enrollment would end as of July 1, 2013.
4. Petitioner filed a timely appeal on July 30, 2013.

DISCUSSION

Medical Assistance (MA) is a state-federal program designed to pay for medical coverage for low income persons. To qualify for MA, a person must be both non-financially and financially eligible. There is no dispute that the petitioner is non-financially eligible. To be financially eligible, a person must have assets that are under the program's asset limit, and income that is under the appropriate income limit. Where, as it appeared here, the recipient's income is over the income limit, an MA deductible must be satisfied before MA eligibility begins. Wis. Stat. §49.47(4)(c); Wis. Admin. Code § DHS 103.08(2); *MA Eligibility Handbook (MEH)*, § 24.1, at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm> . MA deductibles are calculated for six-month periods. To calculate the deductible, the "medically needy" income amount is subtracted from the household's income (less a \$20 unearned income disregard), and the remainder is multiplied by six.

The respondent testified that petitioner's household net income for MA purposes is \$1,487. The adjusted income limit is \$1,198.05. As such, petitioner's household income exceeds the program limit, but allows for eligibility with a deductible. The respondent calculated the deductible by taking petitioner's net income of \$1,487, subtracting the medically need limit of \$591.67, and multiplying by 6. This results in a deductible of \$5,251.98 for the 6 month period.

The petitioner questions the results since his income has not changed. The only thing that has changed is the fact that he is now married. As a result, his *household's* income has changed. Petitioner conceded at hearing that he understood the policy requirements at play here, but complained that his bills have increased, while his income has stayed the same and his FS benefits have decreased.

I have reviewed the respondent's calculations, and found no error. The petitioner has, in effect, argued that the program standard is unfair and that the administrative law judge should grant him relief from the program requirements. I empathize with the petitioner's situation. However, 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, he is not eligible for more than the \$16 allotment; no exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

CONCLUSIONS OF LAW

The respondent correctly determined the petitioner's MA eligibility and correctly calculated the corresponding deductible.

THEREFORE, it is

ORDERED

That 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 27th day of September, 2013

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
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 September 27, 2013.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability