



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MLL/152684

PRELIMINARY RECITALS

Pursuant to a petition filed October 7, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Columbia County Health & Human Services in regard to Medical Assistance (MA), a hearing was held on December 5, 2013, by telephone.

The issue for determination is whether property taxes can be deducted for cost of care purposes.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Becky Wagner
Columbia County Health & Human Services
P.O. Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County who receives MA.
2. Petitioner resides in a nursing home but she still owns her home. The home was rented, but in the summer of 2013 the renters moved out and the home was placed on the market for sale. The Columbia County agency then filed a lien on the property, and this appeal was filed.

3. After the appeal was filed the agency discovered that Dodge County Social Services filed a lien in 2011. The Columbia County agency rescinded its lien.
4. Petitioner's niece, who has power of attorney, continued the appeal because she was told that she could not deduct the home's property taxes for cost of care purposes due to the home being for sale. In the meantime the home has been rented again.

DISCUSSION

As noted, the original reason for the appeal has been resolved because the lien was removed. Petitioner's niece does not contest the earlier lien filed by Dodge County (an appeal of that lien likely would be untimely).

Petitioner's niece went ahead with the hearing because she was told that she could no longer deduct property taxes if the property was for sale. That is based on the MA Handbook, Appendix 16.2.2, which provides that property taxes cannot be used as a deduction because they will be paid upon the sale of the property. When petitioner's niece was told about that provision, however, the property no longer was being rented.

With the property being rented, it can come under self-employment income again, and taxes are a deductible expense in determining self-employment income. It appears that petitioner's niece already has the process of returning the property to "self-employment" status and the county has agreed to review the situation. I thus will dismiss the appeal because it appears that it is being handled outside the hearing process.

CONCLUSIONS OF LAW

No issue remains for determination because the appealed lien was rescinded and an issue regarding property taxes is being handled between the petitioner and the county agency.

THEREFORE, it is **ORDERED**

That the petition for review herein be and the same 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, Room 651, 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 10th day of December, 2013

\sBrian C. Schneider
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 December 10, 2013.

Columbia County Health & Human Services
Division of Health Care Access and Accountability