



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION

MGE/153831

PRELIMINARY RECITALS

Pursuant to a petition filed December 03, 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 hearing was held on January 27, 2014, at Neillsville, Wisconsin.

The issue for determination is whether the Department erred in denying LTC MA for petitioner for the months of August and September 2013.

There appeared at that time and place the following persons:

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: Tom Miller

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

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Clark County. Petitioner has resided in a nursing home since May 2012.
2. Petitioner applied for long-term care MA on October 21, 2013. Petitioner requested backdated eligibility to include August and September eligibility.

3. Petitioner, during August and September 2013, had a joint bank account at Forward Financial with her husband who was also in a nursing home. The ending balance for August was \$502.45.
4. In August 2013, petitioner's bank account balance at ██████ Bank was \$1,749.51 after deducting social security income. She also had a resident account at the nursing home of \$27.90.
5. In the month of September, the ██████ bank account was \$2,084.51 after the deduction of SS income. The resident account was still \$27.90, and the joint bank account had an ending balance of \$502.45.
6. The Department denied eligibility for August and September due to available assets being over the limit.
7. Petitioner appealed.

### **DISCUSSION**

The MA asset limit for a group of one is \$2,000. Wis. Stat., §49.47(4)(b)3m. MA policy confirms that the MA asset limit for a group of one is \$2,000. Medicaid Eligibility Handbook, Appendix 39.4.1, "Elderly, Blind & Disabled (EBD) Assets and Income Table. If available assets are above that limit, the person is not eligible for MA. The statute does not allow for outstanding debts to be deducted from assets, nor does it provide any exceptions for unusual situations. *An asset is considered available if it can be sold or disposed of by the owner or the owner's representative, the owner has legal title to it, and the owner has the legal ability to make the money from the asset available for support and maintenance.* Medicaid Eligibility Handbook, 16.2.1.

Petitioner's representative argued only that the joint account should not have been counted as an asset for petitioner because the funds in that account were already counted as an asset for petitioner's husband in the determination of his LTC MA eligibility.

According to the Medicaid Eligibility Handbook, an application for long-term care MA considers assets as for other MA applications under Section 16. See MEH at § 27.5.1. The assets analysis for joint accounts held with another MA co-owner are specific:

#### 16.4.1 Joint Accounts

Account means a deposit of funds with a financial institution (bank, savings and loan, credit union, insurance company, etc.).

Apply the following policy to savings, checking and share accounts, certificates of deposit, NOW accounts, and similar arrangements where the holders have equal access to the funds.

Deem amounts from joint accounts differently depending upon whether or not the account is shared with an EBD Medicaid applicant / member.

EBD Medicaid applicant/ members also include any of the Medicare Beneficiary programs QMB, SLMB, SLMB +, and QDWI.

SeniorCare applicant/members are not considered an EBD related applicant/member when deeming joint accounts.

#### **16.4.1.1 EBD Medicaid Applicant/Recipient EBD co-owner**

When an EBD Medicaid applicant/member shares a joint account with a co-owner who is another EBD applicant/member, deem an "equal share" to each account holder.

"Equal Share" means an amount in proportion to the number of EBD-related applicant/member account holders. If there are three holders, an equal share means each is deemed 1/3 of the account balance

Under this rule, only half of the Forward Financial account should have been counted as available to petitioner. Even under this rule, with half of the August balance counted, the petitioner was over assets in

August with a total of available assets at \$2,028.64 (██████: \$1,749.51, resident account: \$27.90, Forward Financial: \$251.23).

It does not matter as for September because even the ██████ bank account alone was over the limit for petitioner.

**CONCLUSIONS OF LAW**

The Department did not err in determining that petitioner was not eligible for LTC MA in August and September 2013.

**THEREFORE, it is ORDERED**

That this matter 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, 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 13th day of February, 2014

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\sJohn P. Tedesco  
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 February 13, 2014.

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