



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/154329

PRELIMINARY RECITALS

Pursuant to a petition filed December 23, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Washburn County Department of Social Services in regard to Medical Assistance, a hearing was held on January 23, 2014, at Shell Lake, Wisconsin.

The issue for determination is whether the county agency correctly determined that the petitioner was ineligible for medical assistance while his countable assets exceeded \$2,000.

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, Room 651
Madison, Wisconsin 53703

By: Lynette Butenhoff
Washburn County Department of Social Services
110 W 4th Avenue
PO Box 250
Shell Lake, WI 54871

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Washburn County.

2. The petitioner applied for institutional medical assistance on October 4, 2013, requesting that he be found eligible retroactive to July 1, 2013. The agency denied the application around November 15, 2013.
3. The petitioner's assets exceeded \$2,000 from July 1, 2013, until the agency denied the application in November 2013.

DISCUSSION

A person cannot receive medical assistance if his assets exceed \$2,000. Wis. Admin. Code, § DHS 103.06(1)(a); Wis. Stat. §§ 49.46(1) and 49.47(4). Eligibility begins “on the date on which all eligibility requirements were met, but no earlier than the first day of the month 3 months prior to the month of application.” Wis. Admin. Code § DHS 103.08(1). When retroactive benefits are requested, eligibility depends upon whether the assets exceeded the limit on the last day of the month. *Medicaid Eligibility Handbook*, § 2.8.2.

The petitioner applied for medical assistance on October 4, 2013, requesting that he be found eligible retroactive to July 1, 2013. The agency denied the request around November 15, 2013—the exact date is unknown because the agency did not include the denial letter with its documents—because the petitioner's assets exceeded \$2,000 from July 1, 2013, through the date that benefits were denied. The petitioner concedes that his assets exceeded \$2,000 throughout the relevant period but contends that he should be found eligible because he owes the nursing home over \$35,000 and the nursing home did not make him aware of various options he had to reduce his assets. There is no legal authority to count debts against assets when determining eligibility, and the agency is not responsible for the advice others give or fail to give. Moreover, the Division of Hearings and Appeals has no equitable power that would allow it to consider the fairness of the situation. Therefore, I must uphold the agency's denial of benefits.

I note to the agency that when it submits documents online, the title of a document should indicate what the document is. “Agency Docs for Fair Hearing” does not do this. In addition, the documentation should include the denial notice and the financial calculations the agency used to determine eligibility.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner is ineligible for medical assistance because his assets exceeded \$2,000.

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, 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 27th day of January, 2014

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, 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 January 27, 2014.

Washburn County Department of Social Services
Division of Health Care Access and Accountability