



FH  
[REDACTED]

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

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In the Matter of

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

DECISION

MGE/154424

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 24, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Barron County Department of Human Services in regard to Medical Assistance, a hearing was held on January 23, 2014, at Barron, Wisconsin.

The issue for determination is whether the county agency correctly determined the date that the petitioner was eligible for medical assistance.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

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

Petitioner's Representative:

Attorney [REDACTED]  
[REDACTED]  
[REDACTED]-0111

Respondent:

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

By: No Appearance

Barron County Department of Human Services  
Courthouse Room 338  
330 E LaSalle Ave  
Barron, WI 54812

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

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

2. The petitioner applied for institutional medical assistance on August 1, 2013. The county agency denied her application on December 10, 2013, because her assets exceeded \$2,000.
3. The petitioner's assets exceeded \$2,000 from May 1, 2013, through the end of November 30, 2013.

### **DISCUSSION**

A person cannot receive medical assistance if her 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 institutional medical assistance on August 1, 2013, seeking benefits retroactive to May 1, 2013. The county agency denied the application on December 10, 2013, because her assets exceeded \$2,000 through November 2013, the last date for which assets were verified. The petitioner does not dispute this but contends that her debts should count against her assets. In addition, she points out that her assets fell below \$2,000 as of December 31, 2013, so she should be eligible in that month, even if she is not eligible before then.

There is no legal authority to count debts against assets when determining eligibility, and the Division of Hearings and Appeals has no equitable power that would allow it to consider the fairness of the situation. Rather, the law requires me to find the petitioner ineligible during any month in which her assets exceed \$2,000. Because her assets exceeded \$2,000 from May through November 2013, I must find her ineligible for those months. She is probably eligible in December 2013, but the agency has not had a chance to verify all of her assets for that month. Therefore, I will uphold the agency's denial.

I note that the petitioner can reapply and still be eligible for December 2013. I also note that the petitioner's share of her medical costs, which is her entire monthly income other than the first \$45, can be used to repay a valid uncovered medical debt such as a nursing home bill and not go to the medical assistance program, as is usually the case. *Medicaid Eligibility Handbook*, § 27.7.8.1.

### **CONCLUSIONS OF LAW**

The county agency correctly denied the petitioner's application for medical assistance because her 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 28th day of January, 2014

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\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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 28, 2014.

Barron County Department of Human Services  
Division of Health Care Access and Accountability  
[slo@chibardun.net](mailto:slo@chibardun.net)