



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MAP/154963

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 23, 2014, under Wis. Stat., §49.45(5), to review a decision by the Marquette County Dept. of Human Services to discontinue Medical Assistance (MA), a hearing was held on February 18, 2014, by telephone.

The issue for determination is whether land owned by petitioner results in ineligibility for MA.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Cheryl Selbach  
Marquette County Dept. of Human Services  
480 Underwood Avenue  
P.O. Box 99  
Montello, WI 53949-0099

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marquette County.
2. Petitioner receives MA as a disabled adult. She had a renewal in October, 2013, and it was discovered then that she owns real estate in Vilas County (a cottage passed down through her family) worth \$194,000. Vilas County tax records show her to be co-owner with a WISPACT trust.

3. The county added the value of the property to petitioner's assets. The result put petitioner over the MA Program asset limit.
4. By a notice dated October 18, 2013, the county informed petitioner that MA would end November 1, 2013 because her assets were over the limit. The notice told petitioner that she could appeal by December 17, 2013 if she disagreed with the decision.
5. Petitioner appealed the negative action on January 23, 2014.

### **DISCUSSION**

Petitioner received MA under the Medicaid Purchase Plan (MAPP). The asset limit for MAPP is \$15,000. MA Eligibility Handbook, Appendix 26.4.1.

Non-home real estate is a counted asset for MA purposes. Handbook, App. 16.9. If property is owned jointly with another person, the property can be exempt if the joint owner refuses to sell. That is not true if the property is held as tenants-in-common. Petitioner testified that the property is co-owned with her brother, but has not provided any documentation to verify that claim as yet.

As far as the WISPACT Trust, it does not make the property exempt because petitioner does not reside there. See Handbook, App. 16.6.6, no. 3.

All of this is advisory, however, since petitioner did not appeal within the 45-day time limit to appeal a negative action under Wis. Stat. §49.45(5)(a). Petitioner was informed of the time limit in the negative notice.

It appears that the county still is working with petitioner to sort out this situation. If her brother actually is joint owner the county is willing to review the situation again.

### **CONCLUSIONS OF LAW**

The county correctly closed MA because petitioner owns non-home property worth \$194,000.

**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 24th day of February, 2014

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\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 February 24, 2014.

Marquette County Department of Human Services  
Division of Health Care Access and Accountability