



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

In the Matter of

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

DECISION

MGE/155435

PRELIMINARY RECITALS

Pursuant to a petition filed February 12, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Douglas County Department of Human Services in regard to Medical Assistance, a hearing was held on March 20, 2014, at Superior, Wisconsin.

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

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 Ostrander

Douglas County Department of Human Services
1316 North 14Th Street
Suite 400
Superior, WI 54880

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. The petitioner first applied for medical assistance on December 30, 2013. The county agency determined that she was eligible as of December 1, 2013.
3. The petitioner entered a nursing home on September 13, 2013.
4. The petitioner sold property on a land contract. As of October 22, 2013, the unpaid balance on the interest of the contract was \$29,544.95.
5. The petitioner sold her interest in her land contract for \$27,831.64 on December 27, 2013, and used the proceeds to purchase an exempt asset.

DISCUSSION

A person cannot receive medical assistance if her available 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 entered a nursing home on September 13, 2013, and applied for medical assistance later that month. The county agency denied that application on December 5, 2013, after determining that her assets exceeded the program’s limit. She reapplied on December 30, 2013, and was found eligible retroactive to the beginning of that month. She seeks eligibility retroactive to when she entered the nursing home in September 2013. The sole issue is whether the agency correctly determined that she retained an interest in a land contract that exceeded the medical assistance program’s asset limit until December 2013.

The petitioner sold property on a land contract in 2005. Her value in the land contract as of October 22, 2013, was \$29,544.95, which the agency determined by subtracting the principle paid on the loan from its original sale price. See *Medicaid Eligibility Handbook*, § 16.7.2. According to Wis. Admin. Code, § DHS 103.06(14)(b), the applicant must offer the land contract for sale, and her interest counts as an available asset unless “she provides written documentation from a source active in the market for land contracts in Wisconsin proving that ... her interest in the land contract cannot be sold.” The petitioner never provided documentation to the agency that she could not sell her interest in the property. However, on December 27, 2013, she sold her interest in the land contract for \$27,861.34 and used the proceeds to buy a car, which the agency considered an exempt asset under Wis. Admin. Code, § DHS 103.06(2).

The agency correctly determined that the petitioner was ineligible for medical assistance before December 1, 2013. As long as the petitioner had the land contract, it was considered an available asset unless she provided documentation that she could not sell it. She never provided this documentation. After she sold it near the end of December, the agency no longer counted it as an available asset. Because assets are determined as of the last day of the month, the agency found her eligible for the entire month of December.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was ineligible for medical assistance until December 2013, because her interest in a land contract was a countable asset that exceeded \$2,000 until that month.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 8th day of April, 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 April 8, 2014.

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