



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MAP/156153

PRELIMINARY RECITALS

Pursuant to a petition filed March 19, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Oconto County Department of Health And Human Services in regard to Medicaid Purchase Plan (MAPP), a Medical Assistance variant, a hearing was held on July 29, 2014, at Oconto, Wisconsin. Hearings set for May 6, May 28, June 19, and July 8, 2014, were rescheduled at the petitioner's request (except for May 6).

The issue for determination is whether the county agency correctly denied the petitioner's MAPP application due to excess assets.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



Respondent:

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

By: Kim Reifsteck, fraud investigator
Oconto County Department of Health And Human Services
501 Park Avenue
Oconto, WI 54153-1612

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Oconto County.

2. The petitioner applied for MAPP on January 11, 2014. The county agency issued written notice of denial on February 11, 2014. The bases for denial were failure to verify assets and excess assets. The agency no longer asserts that the petitioner failed to verify assets in response to a written verification request.
3. The petitioner's countable assets in January 2014 consisted of two checking accounts at First Merit Bank (\$681.84), a Toyota Avalon vehicle (\$900), 2006 Suzuki motorcycle (\$6,230), a 1985 Jeep (\$650), and non-homestead real property (\$6,500). These assets totaled \$14,961.84, which is under the MAPP asset limit. The real property, which the petitioner has owned as a tenant-in-common since January 7, 2013, became unavailable for liquidation by the petitioner effective February 7, 2014, the date that the other tenant-in-common filed suit regarding the property. This lowered his asset total further at that time.

DISCUSSION

The MAPP program allows disabled individuals to work but to retain eligibility for Medical Assistance (MA). Wis. Stat. §49.472; *MA Eligibility Handbook (MEH)*, 26.1 - .4, online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. Income and asset eligibility is determined using general MA rules, with the exception that a higher, \$15,000 non-exempt asset limit, and a higher income limit, are used. Wis. Admin. Code, §DHS 103.04(8); Wis. Stat. §49.472(3)(b). MAPP rules require the department to utilize Supplemental Security Income (SSI) regulations to determine what income and assets are counted, disregarded, or exempt. Wis. Stat., §49.47(4)(c), Wis. Admin. Code, §DHS 103.05(8)(b).

The parties agreed on the value of some assets and disagreed as to others. There was no dispute that the checking account totaled \$681.84, and that the Avalon is worth \$900. The county agency used a NADA "low retail" value of \$6,230 for the motorcycle. *See*, County's Exhibit 5, p.6. The petitioner proffered no evidence on the motorcycle value. Neither party offered evidence as to the amount of the lien on the motorcycle, so I did not subtract the amount of the unknown indebtedness. Thus, I used the agency's valuation.

The parties disagreed as to the value of the 1985 Jeep, which the petitioner claims is in significant disrepair. The agency assigned a NADA "low retail" value of \$3,450. *See*, County Exhibit 5, p.8. The petitioner submitted an estimate from Village Auto that assigned a value of \$500. The agency successfully discredited this estimate by following up with the estimator and learning that he had not visually inspected the vehicle. The petitioner's testimony as to the condition of the vehicle was not particularly believable. However, the petitioner supplied another estimate from Heritage Auto Center, dated 7/23/14, which assigned a value of \$650. That is the value that I used in the Findings above.

The petitioner also had a PT Cruiser vehicle at the time of application, which was exempt. When the countable assets from Finding #3 are totaled, the result is a sum that is below the MAPP asset limit. Therefore, the agency will be directed to continue the processing of the January MAPP application, by treating the petitioner as a person who is under that asset limit.

CONCLUSIONS OF LAW

1. The petitioner's countable assets totaled \$14,961.84 at the time of his January 2014 MAPP application; he was therefore under the MAPP asset limit.

THEREFORE, it is ORDERED

That the petition is remanded to the county agency with instructions to continue the processing of the petitioner’s MAPP application in accord with Conclusion of Law #1 above.

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 2nd day of September, 2014

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals
MAPfinAsset



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 2, 2014.

Oconto County Department of Health And Human Services
Division of Health Care Access and Accountability
Attorney [REDACTED]