



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/156538

PRELIMINARY RECITALS

Pursuant to a petition filed March 31, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on May 06, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly denied the Petitioner's application for health care.

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: Simone Johnson

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. He is 64 years old.
2. On March 13, 2014, an application for healthcare was submitted on behalf of the Petitioner.
3. On March 20, 2014, the agency issued a Notice of Decision informing the Petitioner that his application was denied due to assets and income over the program limit.

4. On February 21, 2014, Petitioner was admitted to the hospital as a result of a stroke. He spent 69 days in the hospital. At the time of the hearing, he was recovering at home.
5. Petitioner receives \$561/month in Social Security benefits. Petitioner's wife is employed at Roundy's Supermarket Inc. with gross income of \$6,227.18/month
6. Household assets at the time of application includes:

Petitioner's automobile:	\$ 1,312.00
Petitioner's Checking Account:	\$ 813.79
Petitioner's wife's automobile	\$ 3,750.00
Petitioner's wife's checking account	\$ 1,995.36
Petitioner's wife's savings account	\$ 801.36
Petitioner's wife's IRA	\$130,240.98
Motorcycle	\$ 1,820.00
Moped	\$ 2,135.00

Total household assets counted by the agency are \$140,693.49.
7. On March 31, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In order to be eligible for Medical Assistance, an individual must be elderly (age 65 and older), blind or disabled (EBD). Wis. Stat. §§ 49.46(1) and 49.47(4). See also Medicaid Eligibility Handbook (MEH) § 4.1.

The petitioner is 64 years old, is not blind, and did not have a finding of disability as of the date of the hearing. The Petitioner is not eligible for regular MA because he does not currently meet any of these categories. The Petitioner's wife stated that she attempted to apply for SS disability unsuccessfully. The Petitioner's wife was advised that she might want to apply for MA Disability or other long-term care programs.

Further, 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). The income limit for eligibility is \$853.38/month. The agency concluded that the Petitioner's household assets and income exceed the program limits. The Petitioner's wife asserted at the hearing that her assets and income should not be counted in determining the Petitioner's eligibility.

An EBD fiscal group includes the individual who is non financially eligible for Medicaid and anyone who lives with them, and who is legally responsible for them. Spouses who live together are in each other's fiscal group. This means that the income and assets of both spouses are counted when determining Medicaid eligibility for either or both spouses. MEH § 15.1.1.

Effective April 1, 2014, adults between the ages of 18 and 64 who are not caretakers of children can apply for BadgerCare Plus. The income limit for eligibility is 200% of federal poverty level (FPL). For a household of two, 200% FPL is \$2,621.67. The income of Petitioner and his wife is counted in

determining eligibility. BadgerCare Plus (BCP) Manual, §§ 2.8.2 and 16.1.3. Based on current household income, the Petitioner is not eligible for BCP at this time.

Reviewing the application for eligibility for regular MA as well as BCP, I conclude that the agency properly determined the Petitioner is not eligible due to not being elderly, blind or disabled for MA purposes and exceeding income and/or asset limits for MA and BCP.

As dicta, I again note that the Petitioner's wife was advised to try to apply for disability or other long-term care programs for which the Petitioner might be eligible. This decision does not address eligibility for any programs other than "regular" MA and BCP. If the Petitioner has or does apply for other programs, separate appeal rights apply to those determinations.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner is not eligible for MA and BCP.

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 Milwaukee,
Wisconsin, this 11th day of July, 2014

\sDebra Bursinger
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 July 11, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability