



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/156960

PRELIMINARY RECITALS

Pursuant to a petition filed April 15, 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 13, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the respondent correctly determined petitioner ineligible for Elderly, Blind, Disabled (EBD) MA, because his income exceeded program limits.

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:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner receives SSDI payments of \$788.00 per month.
3. On March 7, 2014, the county agency sent a notice to the petitioner stating that he was not eligible for EBD MA as of April 1, 2014, because his income exceeded program limits.

4. In the March 17th notice, the county agency told the petitioner that he would be eligible for MA if he met a medical deductible.

DISCUSSION

The petitioner's only issue is getting MA without a deductible. When a person's income is over the MA limit, an MA deductible, also known as a spend-down, must be met before eligibility begins. See sec. 49.47(4)(c)2, Wis. Stats, §DHS 103.08(2)(a), Wis. Adm. Code, and the *Medicaid Eligibility Handbook*, §4.9.2. The income limit for a one person household is \$591.67 per month. See the *Medicaid Eligibility Handbook*, §8.1.5. MA deductibles are calculated for six-month periods. A new deductible is then established for the next six months. See §DHS 103.08(2)(c).

The petitioner did not dispute the county agency's actual calculations of the deductible, only that it is unfair that there is any deductible. It may seem unfair to make the petitioner meet a deductible every six months because an MA card is a necessity given his need for health care and its cost. However, a review of the statutes and administrative rules does not reveal any special exception for medical or financial need. This office does not have the authority to alter the clearly stated statutes and rules. If the petitioner is unclear as to the deductible process including what expenses could be used to meet the deductible, he should talk to her county agency worker.

As an aside to the petitioner, I recommend that he consider asking his county agency about the Medicaid Purchase Plan (MAPP). That program still exists as seen in the current *Medicaid Eligibility Handbook*, §26.4. MAPP is a sub-program of Medical Assistance that allows a disabled person to engage in some income producing work while remaining eligible for MA, at higher income and asset limits. The threshold test is whether the individual is "disabled" as defined by Social Security regulations. WI Stat § 49.472(3)(c); *Medicaid Eligibility Handbook*, §26.1. The petitioner is disabled.

There is also a work requirement as found in the *Medicaid Eligibility Handbook*, §26.3.3. To meet the work requirement, a member must engage in a work activity at least once per month, or be enrolled in a Health and Employment Counseling (HEC) program. The program considers a member to be working whenever s/he receives something of value as compensation for his/her work activity. This includes wages or in-kind payments. The exceptions are loans, gifts, awards, prizes, and reimbursement for expenses.

The income limit for MAPP is much higher for MAPP than it is for EBD MA. It is 250% of the Federal Poverty Level for the individual's household. Some persons are eligible but must pay a monthly premium due to the actual income amount they earn. When countable net income for a one-person household exceeds 250% of the FPL per month, the individual is not eligible. See, *Medicaid Eligibility Handbook*, §39.5. Any amount greater than 150% of the federal poverty level (FPL) for one person requires the household to pay a premium. If income is less than 150% FPL, then the individual is eligible without a premium. Also, the asset limit for MAPP is much higher for MAPP than it is for EBD MA. Countable assets may total up to \$15,000. See, *Medicaid Eligibility Handbook*, §26.4. The petitioner's income is less than 150% of the FPL so she would be eligible for MAPP without a premium. The only missing requirement is the work requirement. The petitioner may discuss that requirement with the county agency.

CONCLUSIONS OF LAW

The petitioner must meet a MA deductible in order to become eligible for that program.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 1st day of July, 2014.

\sPeter McCombs
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 July 1, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability