



FH
[REDACTED]

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

In the Matter of

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

DECISION

MGE/157327

PRELIMINARY RECITALS

Pursuant to a petition filed May 02, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to Medical Assistance, a hearing was held on May 21, 2014, at La Crosse, Wisconsin.

The issue for determination is whether the Department erred in denying institutional MA for January 2014.

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 Miller

La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. Petitioner applied for institutional MA. She requested backdating to 1/1/14.

3. Petitioner's assets on the last day of January 2014 exceeded \$6,800.
4. The Department denied the request and began eligibility as of 2/1/14.
5. Petitioner appealed.

DISCUSSION

To be certified for Institutional MA, a person cannot have nonexempt assets in excess of \$2,000. Wis. Stat. §49.47(4)(b)3, Medicaid Eligibility Handbook (MEH), § 39.4. If available assets are above that limit, the person is not eligible for MA. Available assets generally include: Joint accounts. (16.4.1 Joint Accounts); ... Savings account; Checking account; Cash available.... MEH § 16.1.

A backdate request for up to three months prior to the application month can be made at any time. MEH, § 2.8.2. However, a person's asset eligibility in a backdate month is determined by whether or not s/he had excess assets on the last day of the month. If so, s/he is ineligible for the entire month. MEH, § 2.8.2. Unfortunately, neither the Wisconsin statutes nor the Medicaid rules provide any exceptions for unusual situations. I have no authority or discretion other than to apply the rules of the Program.

The issue in this case is the correctness of the Department's refusal to backdate MA coverage to January 2014. The Department found petitioner over the asset limit for January and began MA as of February. At hearing, the documentary evidence clearly showed assets in Community Credit Union for the month of January over the \$2,000 limit.

Petitioner's representative explained that some of the bills had not been paid by the end of January because the bills had not been received by the end of the month. The representative explained that the balance fell below the limit as of February 13, 2014. Petitioner's assets were over the limit on the last day of January and she was ineligible.

CONCLUSIONS OF LAW

The Department did not err in denying eligibility for institutional MA for January 2014 because petitioner's assets exceeded \$2000.

THEREFORE, it is

ORDERED

That this matter 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 13th day of June, 2014

\sJohn P. Tedesco
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 June 13, 2014.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability