



FH  
[REDACTED]

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

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In the Matter of

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

DECISION

MGE/157649

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 15, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to Medical Assistance, a hearing was held on June 12, 2014, at Ashland, Wisconsin.

The issue for determination is whether the petitioner can be found eligible for medical assistance retroactive to November 1, 2013.

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: Beulah Garcia

Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) was a resident of Ashland County. He died early in 2014.

2. The petitioner applied for institutional medical assistance on September 13, 2013. The county agency notified him on October 8, 2013, that he was ineligible from July through September 2013 because his assets exceeded the program's limit.
3. The petitioner incurred a \$1,103.47 pharmacy bill in September 2013. None of this bill was paid while he was alive.
4. The county agency denied the petitioner's posthumous request that the medical assistance program pay for the pharmacy bill.

### DISCUSSION

The petitioner entered a nursing home in July 2013 and died early in 2014. He applied for institutional medical assistance in September 2013, requesting benefits retroactive to July but was not found eligible until October because the county agency determined that his assets exceeded the program's \$2,000 limit until that month. During September 2013, he incurred a \$1,103.47 pharmacy bill that remains unpaid. His children request that the medical assistance program pay this bill.

The petitioner cannot challenge the beginning date of his eligibility because he did not file an appeal of this determination within 45 days. Wis. Admin. Code, § HA 3.05(3). The medical assistance program does have a provision that allows a recipient to contribute his income toward existing debts. Usually, nursing home residents receiving medical assistance must "apply their available income toward the cost of their care." Wis. Admin. Code § DHS 103.07(1)(d). However, the program allows recipients to apply their income toward valid, uncovered medical debts that they are legally obligated to pay, including those debts they incurred before being found eligible for the program. *Medicaid Eligibility Handbook*, § 27.7.8.1. But this this provision does not apply once the recipient dies because at that point he has neither income nor any legal obligation to pay debts. Therefore, I must deny the request that the medical assistance program pay the petitioner's debt.

I am aware that the petitioner's representative believe that this debt remains unpaid because they received bad advice from the nursing home. If this is true, their claim is against the nursing home and not the Department. Regardless, I have no authority to consider such a claim. I also note that the petitioner's representatives are not legally responsible for any of his debts unless they signed a valid agreement to pay them.

### CONCLUSIONS OF LAW

The county agency correctly denied the petitioner's request that the medical assistance program pay for medical bill that he incurred before he became eligible for medical assistance and remained unpaid after he died.

**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 28th day of July, 2014

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\sMichael D. O'Brien  
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 28, 2014.

Wood County Human Services - WI Rapids  
Division of Health Care Access and Accountability