



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/159877

PRELIMINARY RECITALS

Pursuant to a petition filed August 15, 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 telephone hearing was held on September 03, 2014.

The issue for determination is whether the respondent correctly denied petitioners Medical Assistance application due to assets in excess of program limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[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:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Monroe County.

2. The petitioner applied for Medical Assistance on June 6, 2014. The county agency requested that petitioner provide asset verifications by July 7, 2014. Exhibit 6.
3. Verifications were received, and the respondent denied the application based upon its determination that petitioner's assets exceeded the program asset limit of \$2,000.00. See, Exhibit 5. The petitioner appealed that denial on August 15, 2014. Exhibit 1.
4. The respondent's calculation of petitioner's assets included an [REDACTED] in the amount of 2,017.00. Exhibit 9.
5. The [REDACTED] was not available to petitioner prior to at least November, 2014. Exhibit 2.

DISCUSSION

Generally, a person cannot be eligible for medical assistance if her assets exceed \$2,000. Wis. Admin. Code, § DHS 103.06(1)(a); Wis. Stat. § 49.47(4)(b)3g. Medicaid rules require recipients to verify relevant information, including income and assets. Wis. Admin. Code, § DHS 102.03(3)(a) and (h). The petitioner's application was denied because her assets included a pension fund in the amount of \$2,017.00.

At hearing, petitioner provided correspondence from her pension fund stating that:

... Since you left covered employment for reasons other than those which call for immediate payment of pension benefits, there is a waiting period from the date that you terminated employment... This is generally a five (5) month waiting period, ...

If you do not engage in covered employment within that 120 day period, your pension benefit will be mailed the last week of the month of November, 2014.

Exhibit 2.

The respondent's representative conceded that in these circumstances, the pension asset would be considered unavailable to petitioner.

As such, I will remand this matter to the respondent to re-determine petitioner's Medical Assistance eligibility as of the date of application, taking into consideration the unavailability of petitioner's pension asset.

CONCLUSIONS OF LAW

Petitioner's [REDACTED] was not available to her prior to November, 2014.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it re-determine petitioner's eligibility for Medical Assistance, taking into account the fact that the [REDACTED] was not available to petitioner prior to at least November, 2014.

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 7th day of November, 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 November 7, 2014.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability
Attorney [REDACTED]