



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name]

DECISION

MGE/162276

PRELIMINARY RECITALS

Pursuant to a petition filed November 28, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by Waukesha County Health and Human Services in regard to Medical Assistance, a hearing was held on January 06, 2015, at Waukesha, Wisconsin.

The issue for determination is whether Waukesha County Health and Human Services (the agency) correctly ended the Petitioner’s Medicaid – Institution Long Term Care benefits, effective November 1, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted petitioner name]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Nicholas Kush, Economic Support Specialist
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Waukesha County.

- 2. On October 28, 2014, the agency sent the Petitioner a notice indicating that his Medicaid – Nursing Home Long Term Care benefits would be ending effective November 1, 2014, because he did not provide the required proof, because his income exceeded program limits, and because his assets exceeded program limits. (Exhibit 7)
- 3. The Petitioner’s wife filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 27, 2014. (Exhibit 1)

DISCUSSION

Mr. Kush testified that the primary reason the Petitioner’s Medicaid benefits ended was because the balance of the checking account that Petitioner shares with his wife/community spouse exceeded the \$2000 asset limit under Medicaid Eligibility Handbook (MEH) §39.4.1 (See Exhibit 4 – checking account transaction summary 9/24/14 to 10/14/14)

The Petitioner’s wife testified that the balance in the joint checking account fluctuated, because she needed to transfer money into the account to pay for a new hearing aid that cost over \$5,000.

Looking at the checking account summary, it shows an ending balance of \$5,564.18 for November 2014. (See Exhibit 2) However, that balance includes a \$1,947.00 direct deposit of Social Security Income and a direct deposit of \$1,705.29 from a monthly annuity payment. (Id.) Income is not counted as an asset in the month it was received, when determining the countable asset amount. (MEH §16.1) Thus, the countable assets in the joint checking account worked out to be as follows:

\$5,564.18 Ending Balance
-\$1,947.00 Social Security Income
-\$1,705.29 Annuity Income

\$1,911.89 Total Countable Asset for November 2014.

Even if the entire balance of the checking account could be attributed to the Petitioner as an asset, Petitioner’s countable assets in the joint checking account did not exceed the \$2000 asset limit in November 2014.¹ As such, the agency incorrectly ended the Petitioner’s benefits, effective November 1, 2014.

It might behoove the Petitioner’s spouse to create separate checking accounts, one solely in her name and one solely in her spouse’s name, to avoid this confusion in the future.

CONCLUSIONS OF LAW

The agency did not correctly end the Petitioner’s Medicaid – Nursing Home Long Term Care Medicaid Benefits, effective November 1, 2014.

THEREFORE, it is ORDERED

That the agency reinstate the Petitioner’s Medicaid – Nursing Home Long Term Care Medicaid benefits, effective, November 1, 2014. The agency shall take all administrative steps necessary to complete this task within ten days of this decision.

¹ Based upon form F-10095 and the directions in MEH §16.4.1.2, it is likely only half the balance of joint account or \$955.94 can be counted as Petitioner’s asset.

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 Milwaukee,
Wisconsin, this 3rd day of February, 2015.

\sMayumi M. Ishii
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 February 3, 2015.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability