



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MAP/163024

PRELIMINARY RECITALS

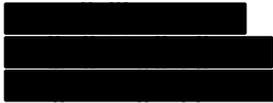
Pursuant to a petition filed January 02, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Taylor County Department of Human Services in regard to Medical Assistance, a hearing was held on March 12, 2015, at Milwaukee, Wisconsin.

The issue for determination is (1) whether the agency correctly terminated the petitioner's MAPP benefits when the petitioner failed to provide timely verification, and (2) whether the agency correctly denied the petitioner's December 4, 2014 application for MAPP benefits because his assets were over the program limits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Beulah Garcia

Taylor County Department of Human Services
540 E. College Street
Medford, WI 54451-2027

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. Prior to moving to Milwaukee County, the petitioner was a resident of Taylor County.

3. On October 1, 2014 Taylor County received returned mail from the petitioner with a forwarding address in Milwaukee County. The forwarding address is the petitioner's current address.
4. Taylor County questioned whether the petitioner's home in Taylor County was now considered an asset for MA eligibility determination because the petitioner was no longer living in the home.
5. On October 2, 2014 the agency sent the petitioner a request for verification regarding the petitioner's home in Taylor County. This verification was sent the petitioner's current address in Milwaukee County. The due date for the verification was October 13, 2014.
6. The petitioner did not timely provide verification, and his MAPP benefits ended effective November 1, 2014.
7. On November 6, 2014 the petitioner contacted the agency regarding his MAPP benefits. The agency informed the petitioner that because he is no longer living in that home, it is a non homestead property and countable as an asset. The petitioner stated that he was co-owner with his brother. The petitioner was to provide the agency additional verification.
8. On November 28, 2014 the agency received a letter from the petitioner's brother stating that the two brother's inherited the property when their father died. The brother informed the agency that he "ha[d] no plans to sell the property." This letter was dated November 13, 2014.
9. On December 5, 2014 the agency in Milwaukee County, Milwaukee Enrollment services sent the petitioner a notice stating that he applied for health care on December 4, 2014, and that his application was denied because his assets were over the program limit. The agency counted the petitioner's assets at \$50,528.54. Half of the value of the home the petitioner co-owns with his brother is \$49,100.
10. On January 5, 2015 the Division of Hearings and Appeals received the petitioner's request for fair hearing.

DISCUSSION

The MAPP program allows disabled individuals to work but to retain eligibility for MA. Wis. Stat., §49.472; MA Eligibility Handbook, § 26.1. QMB is a sub-program of Medical Assistance (MA) in which eligible participants have their Medicare Part B premium as well as Medicare deductibles and co-payments paid by the MA program. See MA Eligibility Handbook, § 32.2.

In order to be eligible for MAPP a disabled person must be below the income and asset limits and work even if the work is in kind or volunteering. MA Eligibility Handbook, § 26.4.1, § 26.4.2., and § 26.3.3. The asset limit for the MAPP program is \$15,000. MA Eligibility Handbook, § 26.4.1. The assets for MAPP generally include non-exempt real property. MA Eligibility Handbook, § 16.2.2. However, non-exempt real property is unavailable and should not be counted if a joint owner outside the fiscal test group refuses to sell the property. *Id.*

All MA programs can be backdated three months prior to the month of application. Wis. Stat., §49.47(4)(d); MA Handbook, § 2.8.2.

This case is somewhat confusing in that there are two different counties involved, and the petitioner originally had both a QMB and MAPP appeal. The petitioner missed his hearings, but then only requested a rehearing on his MAPP case. Thus, the only issue for this decision are the petitioner's MAPP benefits.

The petitioner was receiving MAPP benefits while he was living in Taylor County. When he lived in that county, he was living in the home that he co-owns with his brother. That home was not counted as an asset at that time because he was living there. The petitioner moved from that home to Milwaukee

County. The agency in Taylor County sent the petitioner a request for verification. The agency never received the verification on time, and terminated the petitioner's MAPP and QMB benefits effective November 1, 2015.

Following the November 1, 2014 termination of the petitioner's MAPP benefits, the petitioner provided the agency verification that his brother, with whom he co-owns the home in Taylor County, will not sell the property. The petitioner's brother is outside his fiscal test group. The Taylor County worker who appeared during the hearing testified that pursuant to the policy, the home is an exempt asset. The worker testified that the petitioner's MAPP benefits should have been reopened in November 2014, but a different worker failed to do that.

I note that the Division of Hearings and Appeals did not receive the petitioner's request for fair hearing until January 5, 2015. The petitioner's MAPP benefits terminated November 1, 2014. There is a 45 day appeal limit. The petitioner's appeal is beyond this 45 day limit, and thus I am without jurisdiction to decide whether this termination of his MAPP benefits was correct.

On December 5, 2014 Milwaukee Enrollment Services sent the petitioner a notice that his December 4, 2014 application for health care benefits included the MAPP program was denied. There was no testimony that the petitioner had reapplied for MAPP. However, I must assume that this notice is correct. I note that appeal of this denial is timely. The agency denied the petitioner for being over the asset limit. There is no dispute that the petitioner meets all other program eligibility requirements.

In counting the petitioner's assets, the agency counted half of the value the property that the petitioner owns with his brother. Without counting half of the value of the property, the petitioner would be well under the program asset limit. Based upon the petitioner's testimony, the note from his brother, the testimony of the Taylor County worker, and the policy contained in exhibit 6, I have no choice but to conclude that the agency should not have counted half of the value of this property. The policy states that value of the home should not be counted when a joint owner outside the fiscal test group refuses to sell the property. All the evidence in this case is that this exception applies. Because the petitioner meets this exception with respect to the home he owns with his brother in Taylor County, the petitioner's assets are under the asset limit, and he qualifies for the MAPP program. Backdating is available for this program, and the petitioner's MAPP coverage should be backdated to November 1, 2014. I note that Milwaukee County was alerted about this appeal, but informed the Division of Hearings and Appeals that the appeal would be handled by Taylor County.

This decision only addresses the petitioner's MAPP benefits. At the hearing the petitioner seemed concerned about the termination of his QMB benefits, which were terminated November 1, 2014. The petitioner originally requested hearings on both the QMB and MAPP benefits. He failed to show for those hearings. He then only requested a rehearing on the MAPP benefits. I granted that rehearing. I reviewed the petitioner's rehearing request again, and indeed he only referenced his MAPP case number. Thus, I am without jurisdiction to address the petitioner's QMB benefits. The petitioner may reapply for that program if he did not already do so following the hearing.

CONCLUSIONS OF LAW

The petitioner's appeal of the November 1, 2014 termination of his MAPP benefits was not timely. However, the agency incorrectly denied the petitioner's December 4, 2014 application for MAPP benefits by incorrectly concluding that he was over the program asset limit. The agency should have granted the petitioner's December 4, 2014 application, and backdated that application to November 1, 2014.

THEREFORE, it is

ORDERED

That this case is remanded to the agency. The agency should find the petitioner eligible for MAPP benefits based upon his December 4, 2014 application, and backdate those benefits to November 1, 2014. The agency has 10 days to comply with this order.

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.

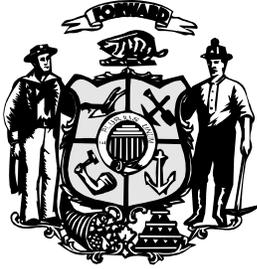
APPEAL TO COURT

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 17th day of March, 2015

\sCorinne Balter
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 March 17, 2015.

Taylor County Department of Human Services
Division of Health Care Access and Accountability