



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION

MGE/163224

PRELIMINARY RECITALS

Pursuant to a petition filed January 15, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Polk County Department of Social Services in regard to Medical Assistance, a hearing was held on February 19, 2015, at Balsam Lake, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner's application for medical assistance for failing to verify his assets.

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: Mary Jo Hacker
Polk County Department of Social Services
100 Polk County Plaza, Suite 50
Balsam Lake, WI 54810

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Polk County.
2. The petitioner applied for medical assistance on November 25, 2014, requesting benefits retroactive to September 1, 2014. The Great Rivers Consortium denied his application on

December 29, 2014. Its denial letter claimed that his assets exceeded the program's limit, but at the hearing the worker stated that the actual reason was because he failed to adequately verify his assets.

3. The petitioner's file contains nine different assets that were verified. He verified every asset he had.
4. On December 1, 2014, the CDPU requested that the petitioner verify checking and savings accounts from [REDACTED] and his wife verify checking and savings accounts from [REDACTED] by December 10, 2014. *Exhibit 3*. On December 23, 2014, the CDPU requested the petitioner verify a [REDACTED] checking account that had been closed for over 10 years and which the petitioner did not report on his application. It made the verification due on the same date it was sent out.

DISCUSSION

The petitioner applied for medical assistance on November 25, 2014, seeking benefits retroactive to September 1, 2014. The agency's December 29, 2014, denial notice indicated that benefits were denied was because his assets exceeded the program's limit. But at the hearing, the worker testified that his application was denied because he failed to verify a bank account that had been closed for over a decade. The petitioner contends that he was not given specific enough notice to comply with the request and that the information was not available.

Medicaid rules require recipients to verify relevant information, including assets. Wis. Admin. Code, § DHS 102.03(3)(h). Agencies must allow at least 30 days from the date of application, or 10 days from the date of the request, whichever is later, to verify the information. *Medicaid Eligibility Handbook*, § 20.7.1.1. *see also* Wis. Admin. Code § DHS 102.03(1). And they are instructed to "[o]nly verify items necessary to determine eligibility for Medicaid." *Medicaid Eligibility Handbook*, § 20.2. Applicants and recipients must resolve questionable information, but workers must assist those who have "difficulty in obtaining" verification. Workers cannot deny eligibility to those who lack the ability to produce verification. *Id.*, 20.5. These instructions are consistent with medical assistance regulations. According to Wis. Admin. Code, § DHS 102.03(1):

An application for MA shall be denied when the applicant or recipient is able to produce required verifications but refuses or fails to do so...If the applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but shall proceed immediately to verify the data elements.

But verification is often hard to gather: Verification rules recognize these difficulties. Thus agencies can deny an application only "when the applicant or recipient is able to produce required verifications but refuses or fails to do so." Wis. Admin. Code, § DHS 102.03(1). That section goes on to state: "If the applicant or recipient is not able to produce verifications, or requires assistance to do so, the agency may not deny assistance but shall proceed immediately to verify the data elements." Medical assistance policy found in the *Medicaid Eligibility Handbook*, §§ 20.8.1. and 20.8.3. instructs agency workers how to carry out this regulation:

Begin or continue benefits when:

1. The member provides requested verification within the specified time limits and is otherwise eligible.
2. Requested verification is mandatory, but the member does not have the power to produce the verification and s/he is otherwise eligible

Deny or reduce benefits when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. You need the requested verification to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility

Medicaid Eligibility Handbook, § 20.8.3.

In this case, the petitioner never listed the closed bank account on his application. And, of course, why would he after it had been closed for over a decade? Moreover, the only time the agency requested information concerning this asset, its request was invalid: It made the request on December 23, 2014, and demanded that he provide that same day, meaning that he was not allowed the 10 days required by law. Finally, even if he had received a valid request, because the account had been closed so long, it would have been difficult to carry out. The worker at the hearing, who has represented this county competently for a long time (and who had nothing to do with the denial), could not point to any error in how the petitioner complied with the various verification requests. I can't either. Therefore, lack of verification of this long-disposed-of asset cannot affect his eligibility. Because the parties agree that nothing else affects his eligibility, I will order the agency to find him eligible. Medical assistance rules allow retroactive eligibility back to "the first day of the month 3 months prior to the month of application." Wis. Admin. Code § DHS 103.08(1). Because the parties agree that the petitioner's assets have been within program's limit since September 2014, and that date was less than three months before he applied, I will find him eligible retroactive to September 1, 2014.

CONCLUSIONS OF LAW

1. The petitioner adequately verified all financial information that he was required to verify.
2. The petitioner has been financially eligible for Medicare Premium Assistance since September 1, 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 find the petitioner eligible for Medicare Premium Assistance retroactive to September 1, 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 5th day of March, 2015

\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 March 5, 2015.

Polk County Department of Social Services
Division of Health Care Access and Accountability