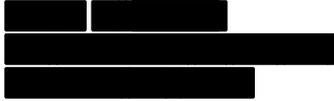




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

BCS/163970

PRELIMINARY RECITALS

Pursuant to a petition filed February 13, 2015, under Wis. Stat. § 49.45(5)(a), to review a decision by the Polk County Department of Social Services in regard to Medical Assistance, a hearing was held on March 25, 2015, at Balsam Lake, Wisconsin.

There is no issue for determination because the county agency now agrees that it incorrectly ended the petitioner's medical assistance eligibility as of March 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



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 inherited approximately \$73,000 and placed the money in a WisPact trust.

3. The county agency notified the petitioner on February 9, 2015, that her benefits would end on March 1, 2015, because she did not verify the trust.
4. The agency now concedes that the petitioner did verify the trust and that it is an exempt asset. It no longer seeks to end her benefits.

DISCUSSION

This matter should never have been heard. The petitioner received a large inheritance and placed the money in a WisPact Trust, which is an exempt asset that does not count against the medical assistance asset limit. The original worker handling the matter did not know the rules and notified the petitioner that her benefits would end on March 1, 2015. The worker at the hearing, Mary Jo Hacker, does know the rules, and conceded that the petitioner remains eligible. Based upon the agreement of the parties, I will order the agency to reinstate the petitioner into the medical assistance program retroactive to March 1, 2015.

CONCLUSIONS OF LAW

The agency incorrectly ended the petitioner's medical assistance as of March 1, 2015, because her assets are exempt.

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 reinstate the petitioner's medical assistance benefits retroactive to March 1, 2015.

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 25th 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 25, 2015.

Polk County Department of Social Services
Division of Health Care Access and Accountability
[REDACTED]@oneillelderlaw.com