FH
Redact

# STATE OF WISCONSIN
## Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MGE/165272

## PRELIMINARY RECITALS

Pursuant to a petition filed April 10, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Dunn County Department of Human Services in regard to Medical Assistance, a hearing was held on May 14, 2015, at Menomonie, Wisconsin.

The issue for determination is whether the county agency correctly ended the petitioner's medical assistance because she failed to adequately verify her pension income.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:
Petitioner:

Redact

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Redact
Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:
Michael D. O'Brien
Division of Hearings and Appeals

## FINDINGS OF FACT

1. The petitioner (CARES # Redact) is a resident of Dunn County.

2. The petitioner filed an application for medical assistance on November 18, 2014, requesting eligibility retroactive to November 1, 2014. That application indicated that she received a $1,007.92 monthly pension from Redact.

3. On December 17, 2014, the petitioner submitted her 2013 tax Form 1099-R showing that during that year she had received $12,750 from a pension and had $666.20 withheld in federal income taxes. *Exhibit 2.*

4. On February 4, 2015, the county agency requested that the petitioner verify "other pension/retirement amount received per month" and gave the following as examples of what it would accept: "Current statement or document with source type and amount; check stubs or tax forms." The request indicated that it was due on February 13, 2015. *Exhibit 4.* This is exactly the same information it requested she provide on its earlier request. *Exhibit 3.*

5. The petitioner submitted a bank statement on February 11, 2015, showing pension deposits of $1,007.82 on December 1, 2014, $1,007.92 on January 2, 2015, and $1,008.75 on January 30, 2015.

6. At some point, the petitioner submitted her 2014 tax Form 1099-R, which again that she received $12,750 from a pension that year and had $666.20 withheld in federal income taxes

## DISCUSSION

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). The agency contends that the petitioner did not properly verify her pension within the deadline.

This matter is somewhat confusing because the agency tossed all of its information into a single online exhibit that did not include any of the eligibility notices. In addition, I have to rely on the agency's summary statement for many of the dates because the exhibits do not state when they were submitted. The petitioner applied for medical assistance on November 18, 2014, requesting eligibility retroactive to November 1, 2014. Because there are no notices, I am not sure if the petitioner filed another application later. The testimony indicates that she had been eligible since earlier in 2014, so I assume this was a renewal application. Regardless, the November application indicated that she received $1,007.92 a month from a pension from Redact. On December 9, 2014, the agency asked her to verify "other pension/retirement amount received per month" and gave the following as examples of what it would accept: "Current statement or document with source type and amount; check stubs or tax forms." Eight days later she submitted her 2013 tax Form 1099-R showing that during that year she had received $12,750 from a pension and had $666.20 withheld in federal income taxes. The agency determined that this was unsatisfactory because the amount withheld varied slightly each month. Why it found the amount withheld relevant, I do not know, because benefits are based upon gross income. This means that to determine her monthly benefit it only had to divide the $12,750 she received during the entire year and divide it by 12. This would have given $1,062.50, which is slightly more than she reported, apparently because she gave the agency the net amount she received.

The agency then sent another request for verification on February 4, 2015. Except for the due date, this request was identical to the earlier one. Thus, the agency did not tell her exactly what it wanted. This time she submitted a bank statement showing pension deposits of $1,007.82 on December 1, 2014, $1,007.92 on January 2, 2015, and $1,008.75 on January 30, 2015. At some point she also submitted her 2014 tax Form 1099-R, which again showed that she received $12,750 from a pension and had $666.20 withheld in federal income taxes. The county agency denied her application because it contends that the information

she provided did not comply with its request. What it wanted was a current reward letter from the pension company. The petitioner submitted this after the deadline set by agency.

There is no basis for the agency's decision. The petitioner complied with the request because she provided the type of information it sought. Nothing in its request indicates that the only adequate verification would be an award letter from the pension company. In fact, there is no specific mention of a reward letter. But there is specific mention of a tax form, which of course the petitioner submitted. And if the agency had limited the acceptable verification to the reward, it would have been wrong. Workers are also instructed not to "exclusively require a particular type of verification when various types are possible." *Medicaid Eligibility Handbook,* § 20.2. As was already pointed out, the tax form adequately verified the pension. And the bank statements, which were consistent with the amount she received after taxes provided supported the tax form. It is true that the petitioner's application incorrectly stated her income because it used the net rather the gross amount, but this mistake does not affect the agency's ability to determine her benefits because it has verification of the correct amount. The agency does not raise any other barrier to her eligibility, so I will order it to reinstate her into the program without any lapse in benefits. I cannot give a specific date for that because I am unsure of it.

## CONCLUSIONS OF LAW

1. The petitioner adequately verified her pension.
2. The county agency incorrectly ended the petitioner's medical assistance.

**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 into the medical assistance program without lapse retroactive to whatever date in the last year it ended those benefits.

## 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 4th day of June, 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 June 4, 2015.

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