



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION ON REHEARING



PRELIMINARY RECITALS

Pursuant to a petition filed June 8, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Dodge County Department of Human Services in regard to Medical Assistance (MA)/MAPP, a hearing was scheduled for July 14, 2015. Prior to hearing, the petitioner submitted a withdrawal. However, he later reconsidered and filed a rehearing request after receiving the dismissal order. The rehearing request was granted, and the hearing was held on July 29, 2015, by telephone. The hearing record was held open for clarifying evidence from the petitioner.

The issue for determination is whether the county agency correctly discontinued the petitioner's MAPP eligibility due to excess assets.

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: [Redacted] ES Spec.
Dodge County Department of Human Services
143 E. Center Street
Juneau, WI 53039-1371

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

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

- [REDACTED]
2. The petitioner had an ongoing MAPP case. He inherited some money from his mother. In May 2015, the local agency received a form from Landmark Credit Union (Landmark), requesting that \$44,000 in saving at that institution be considered an Independence Account. This prompted the agency to request verification of the petitioner's checking and savings accounts. The petitioner timely submitted that verification on May 26, 2015.
  3. The verification showed that the petitioner deposited \$38,000 into a Landmark checking account, and then transferred \$31,545 into a savings account ("Independence Account") in May 2015.
  4. The agency determined that the petitioner was over the asset limit for MAPP as a result of the May transactions. MAPP has a \$15,000 asset limit. Additionally, a recipient may put half of his gross earnings amount for twelve months into an Independence Account, which will then be exempt.
  5. The petitioner's gross income is \$1,077 monthly. When multiplied by twelve, his annual income is \$12,924. Half of this figure is \$6,462. Thus, \$6,462 is the amount of exempt income to be placed annually in an Independence account for MAPP purposes.
  6. As noted above, the petitioner placed \$31,545 into his Independence account in 2015. After subtracting the \$6,462 exempt amount, \$25,083 remained to be counted as an asset. The \$25,083 exceeded the \$15,000 MAPP asset limit, so the agency correctly concluded that the petitioner's MAPP case should be closed for excess assets.
  7. On June 1, 2015, the Department issued written notice to the petitioner advising that his MAPP benefits would be discontinued effective July 1, 2015. The petitioner appealed.
  8. In an effort to re-qualify for MAPP, the petitioner has attempted to spend down his excess assets and has prepaid his landlord for one year's rent (\$8,873). The petitioner's evidence does not establish that the petitioner could not request return of that prepayment upon request, eviction, or if the premises became inhabitable.

### DISCUSSION

The MAPP program allows disabled individuals to work but to retain eligibility for Medical Assistance (MA). Wis. Stat. §49.472; *MA Eligibility Handbook (MEH)*, 26.1 - .4, online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. Income and asset eligibility is determined using general MA rules, with the exception that a higher, \$15,000 non-exempt asset limit, and a higher income limit, are used. Wis. Admin. Code, §DHS 103.04(8); Wis. Stat. §49.472(3)(b). MAPP rules require the department to utilize Supplemental Security Income (SSI) regulations to determine what income and assets are counted, disregarded, or exempt. Wis. Stat., §49.47(4)(c), Wis. Admin. Code, §DHS 103.05(8)(b).

There is no dispute as to the amount of the petitioner's income or that he placed \$31,545 into his account in 2015. The agency correctly relied on the following authority:

#### **26.4.1.1 Independence Accounts**

Someone who has been determined eligible for MAPP can establish an Independence Account. These accounts are an exempt asset. There is no limit to the number of accounts, and no restriction on what the money can be used for.

...

A member's deposits (earned or unearned) in an independence account may total up to 50% of gross earning over a 12-month period, without penalty. If the member's deposits, from actual (earned or unearned income), exceed 50% of his or her actual gross earnings

over the same twelve-month period, a penalty is assessed (See [26.5.1.1 Penalty](#)).

Amounts withdrawn from a MAPP Independence Account during a twelve month period do not affect the limit on the gross amount that may be deposited during the same period without penalty.

...

### **26.5.1.1 Independence Account Penalty**

If the member puts (earned or unearned) in an amount that exceeds 50% of the actual earnings into an Independence Account, the member would be penalized using the following formula. At review, look back 12 months and take the:

Total verified Annual Deposits minus 50% of verified annual gross earned income divided by 12 = monthly assessment.

*MEH*, § 26.4.1.1. Treatment of the account coverage is not specifically addressed in state statute. Also, an Independence Account coverage is not listed as an excluded asset under federal SSI asset policy. *See, POMS Manual*, § SI 01110.210 Excluded Resources.

### **CONCLUSIONS OF LAW**

1. The county agency correctly discontinued the petitioner's MAPP eligibility effective July 1, 2015.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

### **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 14th day of September, 2015

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\sNancy J. Gagnon  
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 September 14, 2015.

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