



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

MGE/168765

PRELIMINARY RECITALS

Pursuant to a petition filed September 14, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the St. Croix County Health & Human Services in regard to Medical Assistance, a hearing was held on October 14, 2015, at New Richmond, Wisconsin.

The issue for determination is whether money in bank accounts the petitioner and her representative did not know existed was an available asset.

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]

St. Croix County Health & Human Services
1752 Dorset Lane
New Richmond, WI 54017-1063

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of St. Croix County.
2. The petitioner applied for institutional medical assistance in May 2015. The agency found her eligible as of July 1, 2015.

3. The petitioner's assets included approximately \$1,000 in bank accounts in [REDACTED] [REDACTED] she did not know existed. The agency's search of her assets indicated the accounts existed. After the agency made this finding, the petitioner's daughter, who acts as her representative, asked credit union personnel about the accounts and was told that they did not exist. Her daughter made a few more requests that the credit union search its records. In July 2015, it discovered the accounts, which had been dormant and had not shown up on any of the credit union's statements since at least 2008. The petitioner's daughter closed the accounts on July 8, 2015.
4. If the accounts in question are not counted as assets, the petitioner's assets were less than \$2,000 from May 2015 forward.

DISCUSSION

A person is ineligible for institutional medical assistance if her assets exceed \$2,000. Wisconsin regulations hold that "only the assets actually available to that person shall be considered." Wis. Admin. Code, § DHS 103.06(1)(a); Wis. Stat. § 49.47(4)(b)3g. The petitioner held two long-dormant accounts in [REDACTED] that, if counted, put her assets over \$2,000 in May and June 2015. She contends that they should not count because she did not know they existed. (She was found eligible in July 2015.)

The petitioner applied for institutional medical assistance in May 2015. She signed releases allowing the county agency to discover her assets. The agency determined that she had two accounts in the credit union. But the petitioner's daughter, who had handled her finances for several years, was unaware of them because she had never seen them on any statement from the credit union. She inquired at the credit union about them and was told they did not exist. Yet they kept showing up when the agency reviewed the petitioner's assets. The petitioner's daughter went back to the credit union, which again told her that no such accounts showed up on its computer. Finally, she asked a manager to review the matter. After 20 minutes of searching on July 8, 2015, the manager found that the assets did in fact exist but that they had not shown up on of the credit union's statements or regular records since at least 2008. The petitioner's daughter closed the accounts that day and paid enough bills to reduce assets below \$2,000.

An asset is available when it can be used to pay current expenses. Money in an account cannot be used to pay for current expenses if the financial institution does not acknowledge the existence of the account. Despite the efforts by the petitioner's daughter, the credit union did not acknowledge that the accounts existed until July 2015. This means that they were unavailable—and thus uncountable—until then. Because the availability of these accounts is the sole basis for finding the petitioner ineligible for institutional medical assistance because of excessive assets in May and June 2015, I find that she was eligible those months.

CONCLUSIONS OF LAW

1. The money in the petitioner's [REDACTED] accounts was not a countable asset during May and June 2015 because it was not available to the petitioner until July 2015.
2. The petitioner was eligible for institutional medical assistance in May and June 2015, because her available assets were less than \$2,000.

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 institutional medical assistance retroactive to May 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.

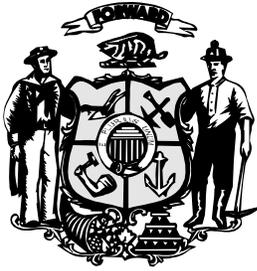
APPEAL TO COURT

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 14th day of October, 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 October 14, 2015.

St. Croix County Health & Human Services
Division of Health Care Access and Accountability