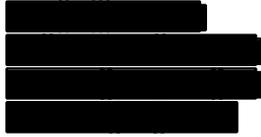




**STATE OF WISCONSIN  
Division of Hearings and Appeals**

In the Matter of



**DECISION**  
Case #: MGE - 175391

**PRELIMINARY RECITALS**

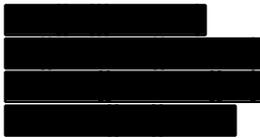
Pursuant to a petition filed on July 5, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marinette County Department of Human Services regarding the denial of Medical Assistance (MA) due to a failure to verify income and assets, a hearing was held on August 17, 2016, by telephone.

No issue remains for determination; the parties agreed upon a stipulated settlement.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: [REDACTED], Income Maintenance Worker  
Marinette County Department of Human Services  
Wisconsin Job Center Suite B  
1605 University Drive  
Marinette, WI 54143

**ADMINISTRATIVE LAW JUDGE:**

Kenneth D. Duren  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marinette County. She is 81 years old and institutionalized. She applied for Elderly, Blind and Disabled Medical Assistance on or about April 13, 2016.

2. On May 16, 2016, the agency issued a Notice of Proof Needed to [REDACTED] in [REDACTED] the petitioner's adult daughter who was identified in the application as an authorized representative for MA application purposes. The Notice had attached a verification request form requesting that the petitioner verify by May 25, 2016, the status and ownership of property located at [REDACTED]; the status and ownership of property located at [REDACTED]; self-employment income generated, if any, from the sale of real property; any annuities held or owned by the petitioner or annuity income; verify the mortgage and balance on the petitioner's former residence; and provide a copy of a Financial Power of Attorney and the [REDACTED] Family Trust document with a schedule of assets owned by the Trust.
3. The agency did not receive this verification information by May 25, 2016, and subsequently on or about May 26, 2016, the agency denied the petitioner's application for EBD-MA due to her daughter's failure to verify this information.
4. The petitioner, by her legal POA, her son [REDACTED] [REDACTED], filed an appeal with the Division of Hearings & Appeals on July 5, 2016, contesting the denial of MA.
5. At the hearing, [REDACTED] explained that he was not informed by his sister that this information was needed, and he resides locally and could provide it, but did not know it was needed. He testified that he attempted to turn in a copy of the Trust at the agency, but the receptionist would not accept it for reasons unclear. He testified that he had the Trust document with him at the hearing on August 17, 2016, and would turn it over to the agency.
6. At the hearing, the parties agreed upon a stipulated settlement providing that the agency would accept the Trust document as if provided by May 25, 2016, and re-request all information required to process the petitioner's application in writing from [REDACTED] [REDACTED], providing him with the standard 10 days to verify the information requested; and if he timely provided verification, then the agency would review and re-determine the petitioner's eligibility for EBD-MA retroactive to the first date possible under the original application of April 13, 2016.
7. No other issue remains for determination by the administrative law judge.

### DISCUSSION

The parties have agreed upon a stipulated settlement, as described in Finding of Fact No. 6, above. The petitioner and her son *must* fully verify her income and assets as to be re-requested by the agency, in addition to turning over the Trust instrument at the hearing yesterday. And they must do so within the time limit stated by the agency. Further failure to comply with verification procedures in a timely fashion will again result in denial of the April, 2016, application for failure to verify income and assets. After verification is completed, then the agency is to rescind the original denial action of May 25, 2016, review and re-determine the petitioner's eligibility for MA retroactive to the first date of eligibility possible under the original April 13, 2016, application, and certify her as eligible for any periods for which she was otherwise eligible, if any, with notice. If the petitioner is again aggrieved by the ultimate outcome in the re-determination review, she must file a *new* appeal at that time. The order, below is in the so-called "alternative form". To be clear, if all items of verification requested are not timely verified, then in the alternative, the appeal will be completely dismissed by operation of my ORDER, below. **The petitioner and her POA would be well-advised to fully cooperate in the timely verification and re-determination process or again risk a procedural denial of eligibility.**

### CONCLUSIONS OF LAW

That the parties have agreed upon a stipulated settlement to issue another verification request, allowing the petitioner to re-verify the requested information, and if timely verified, then the agency will review

and re-determine the petitioner's eligibility for MA retroactive to the first date possible under the April 13, 2016, application.

**THEREFORE, it is**

**ORDERED**

That the matter is remanded to the agency with instructions to: immediately take a copy of the [REDACTED] Trust and asset schedule from the POA after the hearing; immediately issue a re-verification request letter listing all items of resource information that the petitioner must verify giving her the standard 10 days to verify; and if she timely verifies, then review and re-determine her eligibility for MA retroactive to the first date of possible eligibility under law derived from her original application for MA on April 13, 2016 and certify her for all periods of eligibility, if any, with written notice. **These actions are to be completed within 10 days of the timely verification of all requested items. IT IS FURTHER ORDERED, that in the alternative, if the petitioner (and her son) do not fully verify the requested information within 10 days of the request, then the instant appeal is denied in its entirety.**

**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, **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 19th day of August, 2016

\s \_\_\_\_\_  
Kenneth D. Duren  
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 August 19, 2016.

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