



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MGE - 175523

PRELIMINARY RECITALS

Pursuant to a petition filed on July 12, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Barron County Department of Human Services regarding Medical Assistance (MA), a hearing was held on August 17, 2016, by telephone.

The issue for determination is whether the petitioner adequately verified his assets.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



Respondent:

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

By: [Redacted]
Barron County Department of Human Services
Courthouse Room 338
335 E Monroe Ave
Barron, WI 54812

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Barron County.

2. The petitioner applied for medical assistance on January 19, 2016, seeking benefits retroactive to December 1, 2016. The county agency denied his application because he did not adequately verify his assets.
3. The county agency requested disclosure of an annuity on February 10, 2016.
4. The petitioner through his attorney, who is competent in elder law matters, sought clarification on the requested annuity information multiple times from the CDPU. The CDPU never responded to these requests.
5. The Division of Hearings and Appeals concluded in an earlier decision concerning this matter that the county agency could not deny the petitioner's medical assistance application for failing to verify an annuity because the Central Data Processing Unit did not respond to requests from the petitioner's attorney that it clarify the information it sought. That decision also determined that the county agency now had all of the information it needed concerning the petitioner's annuity to determine his eligibility. *Decision No. MGE/172823*.
6. In *Decision No. MGE/172823*, the Division of Hearings and Appeals ordered the county agency to continue processing the petitioner's application and determine within 10 days whether he is eligible for benefits retroactive to December 1, 2015. That decision also gave him the right to file a new appeal if he disagreed with the decision.
7. The department did not appeal *Decision No. MGE/172823*.
8. The petitioner's assets have not exceeded \$2,000 since before January 1, 2016.

DISCUSSION

This is the second appeal concerning the petitioner's request for medical assistance eligibility retroactive to December 1, 2016. The earlier decision involved the department's denial of benefits because the petitioner failed to verify various assets. The Division of Hearings and Appeals determined that the denial was incorrect because the petitioner requested clarification from the Central Data Processing Unit concerning exactly what was requested but the CDPU never provided that help. *Decision No. MGE/172823*. Although medical assistance applicants must verify relevant information within 10 days of when the information is requested, an agency cannot deny benefits if the recipient is incapable of obtaining the verification or needs help getting it. Wis. Admin. Code, § DHS 102.03(1). In addition, workers are instructed: "Assist the member in obtaining verification if he or she requests help or has difficulty in obtaining it." *Medicaid Eligibility Handbook*, § 20.1.4.

The earlier decision determined that the county agency now had all of the information it needed concerning the petitioner's annuity to determine his eligibility. It ordered the agency to make this determination within 10 days and allowed the petitioner to file a new appeal if he disagreed with the decision. That decision was never appealed. Nevertheless, the agency continued to deny the application because the petitioner failed to verify his annuity; it also added a few more items he failed to verify.

The original decision should have been clearer. The intent was that the agency would determine the petitioner's financial eligibility based upon the information it had and not that it would continue to seek additional verification. The latest denial appears to be because the agency is concerned that at some point in the last five years the petitioner may have divested some assets. The previous decision was meant to indicate that the petitioner had submitted enough information to prove that this was unlikely. While I understand the agency's need to be careful, I am not going to allow it to relitigate this point. There is sufficient information to determine his eligibility. Assuming there has not been a divestment, no one is questioning that he has been under the medical assistance limit since at least December 2015. I will order the agency to begin his benefits as of then.

CONCLUSIONS OF LAW

The petitioner has met the eligibility criteria for institutional medical assistance since December 2015.

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 take all steps necessary to ensure that the petitioner is financially eligible for institutional medical assistance retroactive to December 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, **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 27th day of September, 2016

\s _____
Michael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 27, 2016.

Barron County Department of Human Services
Division of Health Care Access and Accountability
Attorney [REDACTED]