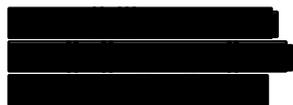




STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



**DECISION**  
Case #: MGE - 175547

**PRELIMINARY RECITALS**

Pursuant to a petition filed on July 13, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Cty Dept on Aging regarding Medical Assistance (MA), a hearing was held on September 13, 2016, by telephone.

The issue for determination is whether the department correctly determined that the petitioner is not financially eligible for Medicaid or Medicaid or Community Waivers.

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: (Milwaukee Enrollment Services)  
Milwaukee Cty Dept on Aging  
Aging Resource Ctr-Suite 300  
1220 W Vliet St  
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County.

2. On or about May 12, 2016, petitioner provided Milwaukee Enrollment Services (MILES) a copy of a bank statement showing her checking account history from April 11 through May 10, 2016. The petitioner did not provide MILES any additional verification or documentation regarding her checking account balance.
3. On May 3, 2016, the Social Security Administration made an electronic deposit into the petitioner's checking account in the amount of \$2,062.
4. As of May 10, 2016, the petitioner's checking account balance was \$8,135.72.
5. As of May 10, 2016, the petitioner had no outstanding checks that were waiting to clear her checking account.
6. MILES issued a notice of decision dated June 8, 2016 which stated that petitioner's application for health care benefits was denied as of June 1, 2016. The decision also stated that petitioner owns assets in excess of the program limit for both the Medicaid and Community Waivers programs.
7. For an unspecified period of time in the past, the petitioner was enrolled in the Family Care program. Her services through the Family Care program ended at an unspecified time prior to September 13, 2016, the date on which the hearing in this matter was held.
8. On July 13, 2016, the petitioner submitted two fair hearing request forms: one indicated that she was filing an appeal related to her Family Care eligibility and cost share; the other indicated that she was filing an appeal related to the termination of her Medical Assistance.

### DISCUSSION

To be eligible for "Elderly / Blind / Disabled Medicaid" ("EBD Medicaid"), an unmarried individual must meet certain financial eligibility requirements. One of those requirements provides that an unmarried individual may not own countable, available assets in excess of \$2,000. *Medicaid Eligibility Handbook [MEH]* §16.1 and 39.4.1. To be eligible for a home and community based Medicaid waiver program (also referred to as "Community Waivers programs"), an unmarried individual must be financially eligible for Medicaid. *MEH* §28.1. Income is not counted as an asset during the month it is received. *MEH* §16.1.

The only notice of decision included in the hearing record, which is dated June 8, 2016, states that it is a denial of a benefit application filed on October 1, 2014 and indicates that the petitioner is not eligible for Medicaid or Community Waivers as of June 1, 2016. The MILES representative who appeared at the hearing explained that the computer system used to issue the notice automatically filled in the earliest date on which the petitioner had filed a benefit application but she was uncertain what more recent event actually triggered the issuance of the June 8, 2016 notice. More to the point, she was unsure whether the petitioner had filed a recent application for Medicaid or Community Waivers which was denied or whether this case involved the termination of ongoing benefit eligibility.

It is undisputed that the petitioner submitted a bank statement to MILES regarding the time period of April 11 – May 10, 2016 and that she did not have any outstanding checks awaiting clearance as of May 10, 2016. The bank statement shows and petitioner acknowledged that the balance in her checking account was \$8,135.72 as of May 10, 2016. Because she received \$2,062 from the Social Security Administration on May 3, 2016, that amount must be counted as income rather than as an asset during the month of May, 2016. In other words, the relevant verification shows that the petitioner had \$6,073.72 in countable, available assets as of May 10, 2016. The petitioner testified that in June of 2016, she paid significant home-related expenses. However, she provided no documentation to establish the exact amount of those expenses. The MILES representative who participated in the hearing testified that she personally spoke with the petitioner on June 8, 2016 at which time the petitioner indicated that her assets

were over the limit possibly because she had been in the hospital and had been unable to access her checking account. The MILES representative, in turn, appropriately advised the petitioner that she should send in a written statement regarding why her assets exceeded the limit. Petitioner did not assert and there is no evidence that the petitioner sent in that statement. Further, petitioner did not clearly assert during the hearing that the funds in her checking account were not available to her. Based on this hearing record, the county correctly determined that the petitioner's assets exceeded the \$2,000 asset limit. *As discussed during the hearing, the petitioner may reapply at any time and may provide verification that she has since incurred expenditures that have reduced her countable, available assets below the asset limit.*

**CONCLUSIONS OF LAW**

The department correctly determined, based on verification submitted by the petitioner, that the petitioner exceeded the asset limit for EBD Medicaid and Community Waivers as of June of 2016.

**THEREFORE, it is** **ORDERED**

The petitioner's appeal is dismissed.

**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 15th day of September, 2016

\s \_\_\_\_\_  
Teresa A. Perez  
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 15, 2016.

Milwaukee Cty Dept on Aging  
Division of Health Care Access and Accountability