



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name]

DECISION
Case #: MQB - 175658

PRELIMINARY RECITALS

Pursuant to a petition filed on July 18, 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's assets exceed the limit allowed for institutionalized persons under the program's spousal impoverishment provisions.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted petitioner name]

;

Respondent:

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

By: [Redacted signature]
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 is disabled and lives with his spouse.
3. The petitioner and his wife have \$188,216.58 in assets, including a land contract valued at \$109,674.65.
4. The department denied the petitioner's request for Medicare Premium Assistance because his assets exceeded the program's limit.

DISCUSSION

Wisconsin has three related sub-programs that help poor people pay their Medicare premiums. The Specified Low Income Medicare Beneficiary (SLMB) and Specified Low Income Medicare Beneficiary Plus (SLMB+) are medical assistance sub-programs mandated by Wis. Stat. § 49.468(1m)(a) that pay their participants' Medicare Part B premiums. *Medical Eligibility Handbook*, § 32.1.1. The Qualified Medicare Beneficiary (QMB) program pays not only the Medicare Part B premium but also some Medicare deductibles and co-payments. The highest asset limit for any of the sub-programs is \$10,930 for a married person. *Medicaid Eligibility Handbook*, § 32.6. The program uses the same rules for determining financial eligibility as Medicaid. *Medicaid Eligibility Handbook*, § 32.1.1.

The county agency denied the petitioner's request for Medicare premium assistance after determining that his assets exceed \$188,000. He contends that it is unfair to include a land contract, which makes up over \$109,000 of these assets. Whether it is unfair or not, I have no power to ignore medical assistance laws and regulations, and there is no legal basis for exempting his land contract. Furthermore, even if it were exempted, he would have over \$78,000 in countable assets, an amount well above the program's limit. Therefore, I must uphold the agency's denial.

CONCLUSIONS OF LAW

The petitioner is ineligible for Medicare premium assistance because his assets exceed the program's limit.

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 12th 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

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The preceding decision was sent to the following parties on September 12, 2016.

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