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[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: MGE - 211382

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on December 12, 2023, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services regarding Medical Assistance (MA), a hearing was held on January 10, 2024, by telephone.

The issue for determination is whether the agency correctly determined that petitioner's assets exceeded Medicaid program limits.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Anthony Meier

Marathon County Department of Social Services  
400 E. Thomas Street  
Wausau, WI 54403

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County. Petitioner has been continuously eligible for Medicaid since January 2021. He has also been eligible for the Medicare Savings Program (QMB) since March 2021.

2. On October 16, 2023, the agency issued notice to petitioner indicating that his enrollment in Medicaid and QMB was due for renewal, and that the renewal needs to be completed by November 16, 2023. (Exhibit R-1).
3. Petitioner contacted the agency by telephone to complete his renewal on November 8, 2023. The agency issued a verification request the following day seeking verification of petitioner's savings account with [REDACTED], a checking and savings account with [REDACTED], verification of his three vehicles, verification of his land, and a signature for the renewal. Verification was due November 28, 2023. (Exhibit R-2)
4. On November 13, 2023, the agency erroneously issued notice to petitioner indicating that his Medicaid enrollment would end at the end of the month. Despite the negative notice, petitioner's Medicaid enrollment continued with no gap in service.
5. Verifications were timely received from petitioner, and on November 27, 2023, the agency issued a notice to petitioner indicating that his Medicaid enrollment would end effective January 1, 2024 due to assets exceeding program limits. (Exhibit R-7)
6. On December 12, 2023, petitioner timely filed a Fair Hearing request contesting the end of his Medicaid enrollment.

### DISCUSSION

Per *Medicaid Eligibility Handbook (MEH)* 39.4.1, the asset limit for SSI-Related Medicaid is \$2,000.00 for a household of 1 adult. An individual's homestead is an exempt asset for purposes of MA eligibility. *Medicaid Eligibility Handbook*, § 16.8.1.3. For non-institutionalized individuals, the homestead is exempt as long as the individual resides in it or intends to return to it. *Id.* Real property that is not the individual's homestead is a countable asset for determining MA eligibility. *MEH*, § 16.9. For EBD (Elderly, Blind, Disabled) cases, non-homestead property may be excluded as a countable asset if the property is "listed for sale with a realtor at a price consistent with its fair market value." *Id.*

At hearing, the agency representative testified that the agency reviewed the verifications submitted by petitioner in determining that petitioner's assets exceed program limits. He noted that petitioner reported and verified several bank accounts. Some of these were business accounts and were excluded. However, several were countable. The accounts that were not reported to be business accounts were two accounts with Advantage West, and one with BMO Harris. Petitioner also reported \$1,000.00 cash on hand, which was also a countable asset. See, *MEH*, § 16.1. The total value of these countable accounts was \$1,514.33.

The agency representative testified further that the majority of petitioner's properties are utilized for self-employment purposes. In accord with *MEH*, § 16.9.1, these assets were excluded from the asset calculations. Petitioner does own multiple land parcels that he conceded to the agency in 2023, and at hearing, are not involved in his self-employment.

The agency representative noted that in calculating petitioner's assets it considered his two vehicles; a value of \$5,000.00 was reported for the [REDACTED], and a value of \$900.00 was reported for the [REDACTED]. In accord with *MEH* § 16.7.9.2, the higher value vehicle was exempted from the asset calculation. No exemptions were identified for the second vehicle, so the value of \$900 was included.

Finally, following the direction of *MEH*, §§ 16.2.2, 16.8 and 16.9.1, for the real property not involved in petitioner's self-employment or connected to his home, the full fair market value was counted. Per the verification documents provided, the full value would be \$3,200.00.

Petitioner focused his appeal on the value of the counted real estate parcels, noting that they had very little value due to their small size and nature (landlocked). The agency represented countered that the values were derived from the verification that petitioner submitted. He also noted that, even if the real estate parcels were not counted, the agency would still be counting \$900.00 for the second vehicle, as well as \$714.33 and \$805 for the other two bank accounts. This would total to \$2,419.33, which would still exceed the \$2000 limit.

Petitioner was advised that, as a Realtor, he could list the properties for sale, which would exclude their countability. Alternatively, he was informed that he could re-title the properties in the name of his LLC, which could make them excludable for asset counting purposes.

I conclude the agency correctly applied the state regulations and policies that required it to count the petitioner's assets. I have reviewed the agency's calculations, and conclude that the agency correctly discontinued the petitioner's enrollment in MA effective January 1, 2024. Nothing about this decision prohibits the petitioner from pursuing continuation of his MA enrollment or applying for MA anew, if he has not already done so, and the agency can re-evaluate his eligibility based on current circumstances.

### CONCLUSIONS OF LAW

The agency correctly discontinued the petitioner's MA benefits effective January 1, 2024.

**THEREFORE, it is**

**ORDERED**

That petitioner's appeal is hereby 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, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, 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

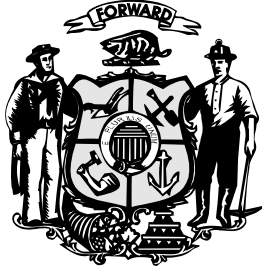
IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

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 29th day of February, 2024



\s \_\_\_\_\_  
Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
5<sup>th</sup> Floor North  
4822 Madison Yards Way  
Madison, WI 53705-5400

Telephone: (608) 266-7709  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 29, 2024.

Marathon County Department of Social Services  
Division of Health Care Access and Accountability