



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MAP - 211494

PRELIMINARY RECITALS

Pursuant to a petition filed on December 21, 2023, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Marathon County Department of Social Services regarding Medical Assistance (MA), a hearing was held on February 7, 2024, by telephone.

The issue for determination is whether the agency correctly terminated petitioner's Medicaid Purchase Plan (MAPP) enrollment effective January 1, 2024, due to assets exceeding 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: Karen Smith

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 Oneida County and has been enrolled in the MAPP program since August 1, 2020.

2. In April of 2022, petitioner reported to the agency that he had purchased land located at [REDACTED] [REDACTED]. Petitioner is the sole owner of the property. The land was initially deemed an unavailable asset, in order to allow petitioner to retain his MAPP eligibility under COVID policy.
3. Petitioner completed a healthcare benefits review on August 21, 2023, and reported the value of the property as \$10,000; his MAPP eligibility remained open.
4. On December 8, 2023, the petitioner reported to the agency that the value of the property was \$25,000; the agency updated petitioner’s case and issued an About Your Benefits notice on December 11, 2023, informing petitioner that his MAPP enrollment would be ending effective January 1, 2024 due to assets exceeding program limits.
5. Per *Medicaid Eligibility Handbook (MEH)* §16.8.1, the property is a countable asset unless the shelter in which he resides is on the property. Petitioner has previously reported that he is homeless and he has his mail delivered to an office address in [REDACTED]. Petitioner has resided at the property located at [REDACTED], since May of 2023.

DISCUSSION

To be eligible for MAPP, an individual may have no more than \$15,000 of countable assets. See *Medicaid Eligibility Handbook (MEH)* §26.4.1. The agency’s position, as I understand it, is that Petitioner’s MAPP eligibility was terminated as of January 1, 2024 because he failed to prove that he resides at the real property located at [REDACTED]. Petitioner testified that he has resided at the property since May of 2023. He has been residing in a tent on the property, which is why he has used a [REDACTED] address to receive mail.

Homestead property is not a countable asset. The *Medicaid Eligibility Handbook* provides the following guidance regarding such assets:

An individual’s home is an excluded asset.

A home is defined as any property an individual has an ownership interest in and which serves as their primary place of residence. An individual’s primary place of residence is the property they consider their principal home and to which, if absent, they intend to return. It can be real or personal property, fixed or mobile, and located on land or water.

The home can include any of the following:

- The shelter in which they reside
- The land on which the shelter is located
- Related buildings on the land

The home can include more than one lot. Land is considered part of the home as long as the lots adjoin one another and are not separated by land in which neither the individual nor their spouse has an ownership interest. Easements and public rights of way, such as utility lines and roads, do not separate other land from the home plot. For example, there are farms where the land is on both sides of a road and considered a part of the home. If land is completely separated from the home property by land in which neither the individual nor their spouse has ownership interest, it should not be considered part of the home.

MEH §16.8.1.

Petitioner has explicitly contended that he has resided on the property since May of 2023. The agency has not substantively refuted this claim.

The agency provided no documentary evidence at hearing. Petitioner provided documentation and photographs corroborating his testimony and establishing that he does, in fact, reside at the property. The agency asserted that petitioner had not provided verification of his residence, though this was not included as a basis for the MAPP termination in the About Your Benefits letter sent to petitioner on December 11, 2023. In any case, and likely owing to the omission of such a termination basis in the agency's notice, there is nothing in the record identifying any request for such verification. Had the agency identified the failure to verify as a reason for the termination, provided copies of the relevant requests for verification, and/or case notes regarding any communication between agency workers and petitioner, the agency may have established that proper written verification requests were sent, that those notices were sufficiently clear and detailed, that those requests identified specific deadlines, and that agency workers communicated with the petitioner in writing and/or by telephone as to how he could satisfy the verification request.

Because the agency has not established a failure of verification or that petitioner does not reside at the property, the record is not sufficient to establish that the agency's denial of MAPP benefits effective January 1, 2024 was proper. I find that the petitioner has established that the property located at [REDACTED] is the home of petitioner, as that term is defined at *MEH* §16.8.1. As such, the property is not a countable asset. I am remanding this matter to the agency with instructions to rescind the termination of Petitioner's MAPP benefits.

CONCLUSIONS OF LAW

1. Petitioner resides at [REDACTED]
2. The agency has not established that it properly denied Petitioner's application for MAPP eligibility.

THEREFORE, it is

ORDERED

The matter is remanded to the agency with instructions to rescind the denial of Petitioner's MAPP eligibility effective January 1, 2024. The agency shall comply with this order within ten days of the date of this decision.

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, 5th 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

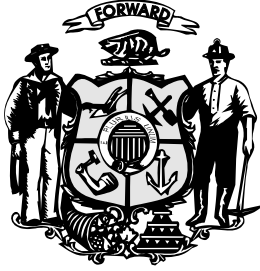
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 6th day of March, 2024



\s _____
Peter McCombs
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 March 6, 2024.

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