



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

MED-70/82111

PRELIMINARY RECITALS

Pursuant to a petition filed January 11, 2007, under Wis. Stat., §49.45(5), to review a decision by the Winnebago County Dept. of Social Services to deny Medical Assistance (MA), a hearing was held on February 21, 2007, at Neenah, Wisconsin.

The issue for determination is whether petitioner's assets were over the MA limit prior to December, 2006.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Wisconsin Department of Health and Family Services
Division of Health Care Financing
1 West Wilson Street, Room 250
P.O. Box 309
Madison, WI 53707-0309

By: Mary Beth Gehrke, ESS
Winnebago County Dept Of Human Services
211 N. Commercial Street
Neenah, WI 54956-2616

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.

2. An application for MA was filed on petitioner's behalf on November 15, 2006. On the application petitioner listed bank accounts totaling approximately \$3,900, and "life insurance" at Community First Bank with a balance of \$1,603. A worker from the county advised petitioner's daughter that assets had to be below \$2,000, and that life insurance had a \$1,500 exemption.
3. Petitioner's daughter met with her processing worker on December 12. At that meeting the worker discovered that the account listed as life insurance was actually a savings account with a death benefit.
4. Petitioner's accounts, less her social security received each month, totaled \$4,572 at the end of October, 2006, and \$2,578 at the end of November.
5. Assets were reduced below \$2,000 on December 12, 2006, and institutional charges were opened effective December 1, 2006.
6. By a notice dated December 19, 2006, the county informed petitioner that MA was granted effective December 1, but denied for October and November because assets were over the limit.

DISCUSSION

The MA asset limit for an individual is \$2,000. Wis. Stat., §49.47(4)(b)3m. If assets are above that limit, the person is not eligible for MA. The statute does not allow for outstanding debts to be deducted from assets, nor does it provide any exceptions for unusual situations.

Petitioner's daughter complained that the worker who spoke with her in November did not inform her that the Community First account was not a life insurance policy. The worker testified that it was listed on the application as life insurance, and at that point she was simply scanning the application. It was not until the county actually received a copy of the bank statement that it became apparent that the account was a savings account, not a life insurance policy. I cannot find that the county misled petitioner's daughter (I note that there likely would be no remedy even if the worker had misled petitioner's daughter).

Petitioner also argues that she likely will be evicted from the nursing home due to the non-payment of bills, and the eviction would be a hardship. There is nothing in state MA law that allows the Division of Hearings and Appeals to make an exception to the asset limit rule for cases of hardship.

Petitioner provided copies of two Elder Law News bulletins with highlighted portions suggesting that unpaid nursing home bills from the period prior to eligibility could be used to offset petitioner's monthly cost of care. Prior Division of Hearings and Appeals decisions have held that Wisconsin does not allow pre-existing nursing home bills to be used as an offset against cost of care requirements. See, e.g., case no. MED-14/72307, dated March 17, 2006.

CONCLUSIONS OF LAW

The county correctly determined that petitioner's assets were over the MA limit in October and November, 2006.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wisconsin Statutes § 227.49. A copy of the statutes can be found 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 no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to Circuit Court, the Respondent in this matter is the Wisconsin Department of Health and Family Services. Appeals must be served on the Office of the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 650, P.O. Box 7850, Madison, WI 53707-7850.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wisconsin Statutes §§ 227.52 and 227.53.

Given under my hand at the City of
Madison, Wisconsin, this 28th day
of February, 2007.

THIS IS A CERTIFIED COPY OF THE
FINDINGS AND DECISION MADE IN THIS
MATTER AND FILED IN THE DIVISION OF
HEARINGS AND APPEALS IN THE CITY
OF MADISON, WISCONSIN.


Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals
0226/bcs

cc: Suzanne Bach, DHFS-Bureau Of Health Care Eligibility - email
Rita Cairns, DHFS - email
Tim Gessler, Winnebago Dept Of Human Services - email
Vicki Jessup, Department Of Health & Family Services - email
Jim Jones, DHFS-Division Of Health Care Eligibility - email
Joanne Simpson, DHCF/BHCE - email