



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION
Case #: MAP - 199545

PRELIMINARY RECITALS

Pursuant to a petition filed on July 31, 2020, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Kenosha County Human Service Department regarding Medical Assistance (MA), a hearing was held on October 20, 2020, by telephone. The record was held open for 14 days post-hearing for the parties to submit additional evidence. Additional evidence was submitted on October 20, 2020. The evidence was submitted to the county. The county did not wish to provide any additional response or evidence.

The issue for determination is whether the agency correctly denied the Petitioner's application for healthcare benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

Petitioner's Representative:

[Redacted]
[Redacted]
[Redacted]
[Redacted]

Respondent:

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

By: [Redacted]
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On April 24, 2020, the Petitioner and his wife applied for healthcare benefits. A three month backdate was requested.
3. On May 12, 2020, the agency issued a request for verification of assets, including a money market account at [REDACTED] and a vehicle, with a due date of May 26, 2020.
4. On May 12, 2020, the agency received a statement from [REDACTED] reporting the balance in the Petitioner's money market account was \$32.23 as of April 30, 2020.
5. On May 13, 2020, the agency conducted by AVS search and obtained information that the Petitioner and his wife had additional bank accounts than what was previously known. The AVS reported the Petitioner and his wife had additional savings and checking accounts with [REDACTED]. On May 14, 2020, a second request for verification of a savings accounts and two checking accounts at [REDACTED] was issued with a due date of May 26, 2020. The notice also contained the following statement: "For Your Information (No Action Needed) Your agency is checking other sources for the information listed below. You do not have to do anything at this time. If we cannot get the information from other sources, you will get a letter telling you what to do." The notice then lists the following: "Information about your checking, savings, and/or money market accounts" for Petitioner and his wife.
6. On May 25, 2020, the Petitioner submitted a document with a date of May 23, 2018 listing the Petitioner's name and an account number and further listing what appears to be four accounts: a primary share account jointly owned by Petitioner and his wife, a money market jointly owned by Petitioner and his wife, a checking account jointly owned by the Petitioner and his wife, and an IRA account owned by the Petitioner's wife.
7. On May 27, 2020, the agency issued a notice of decision to the Petitioner informing him that his application for healthcare benefits was denied effective February 1, 2020 due to lack of verification of the savings and checking accounts.
8. On July 31, 2020, the Petitioner filed an appeal with the Division of Hearings and Appeals.

## DISCUSSION

The petitioner seeks medical assistance through the Medicaid Purchase Plan, which allows disabled working people to receive medical assistance. Wis. Stat. § 49.472(3)(a). Recipients cannot have more than \$15,000 in assets. Wis. Stat. § 49.472(3)(b).

Assets must be verified as part of determining eligibility. Medicaid Eligibility Handbook (MEH), § 20.1.1. The primary responsibility for verifying information and resolving questionable information lies with the applicant/member. MEH, § 20.1.4. However, the agency worker must use all available data exchanges to verify information rather than requiring the applicant to provide it. Id. The agency is required to use the best information available to process the application. Id.

Verification of some liquid assets can be obtained electronically using the Asset Verification System (AVS). MEH, §20.10. If AVS puts the individual's total countable assets above a given asset limit, but the self-reported information puts his or her total countable assets below that same limit, the two data sources are not reasonably compatible and further verification is required as a condition of eligibility. MEH, §20.3.5.2.

In this case, the agency asserts that it obtained information from AVS that was inconsistent with the information provided or reported by the Petitioner regarding his bank accounts. Therefore, it needed further verification to resolve the questionable information and determine eligibility.

The Petitioner's position is that he believed he had supplied the information that was requested. He further asserts that the agency is engaging in over-verification by requesting additional information. In addition, he asserts the notices were not clear as to the information that was being requested. He contends the agency should have reached out to him to resolve the questionable information or provide clarification of what was needed.

I conclude that the agency did not correctly deny the Petitioner's application based on lack of verification. The agency obtained information from AVS about assets that was inconsistent with the Petitioner's reported assets. The agency was correct to send a second request for verification to the Petitioner to attempt to resolve the inconsistent information. However, the notice was not adequate to inform the Petitioner of what action he needed to take. In fact, the notice was confusing and inconsistent in telling him to supply information by May 26, 2020 and also telling him that he needed to take no action unless further advised.

When the agency did not receive any additional verification from the Petitioner, the agency should have used the best information available which was the information from AVS to determine the Petitioner's eligibility. The evidence supplied by the agency shows the Petitioner's account balances as of July 2020, but I do not have any evidence of the Petitioner's account balances for any earlier periods.

This matter is being remanded to the agency to determine the Petitioner's eligibility for healthcare benefits effective February 1, 2020 based on the best evidence available concerning Petitioner's income and assets. The Petitioner should be allowed 10 days to provide verification of his assets at that time. If the Petitioner does not provide verification, the agency shall make its decision about eligibility based on the best evidence available. I note that pandemic policies will apply if the Petitioner is determined to be eligible for any month of the emergency period.

### CONCLUSIONS OF LAW

The agency did not correctly deny the Petitioner's application for healthcare benefits based on lack of verification.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the agency to take all administrative steps necessary to re-determine the Petitioner's eligibility for healthcare benefits retroactive to February 1, 2020. The agency must issue a request for verification to the Petitioner as soon as practicable but no later than 10 days of the date of this decision informing him of the need to submit verification of assets and allowing 10 days for the Petitioner to submit the verification. The agency must then determine Petitioner's eligibility as soon as practicable but no later than 10 days after the verification due date based on the best information available. The agency shall send notice to the Petitioner of its determination with new appeal rights.

### **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, 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.

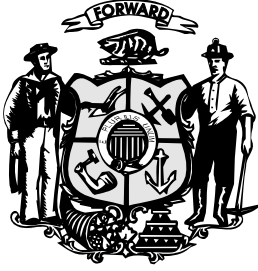
## APPEAL TO COURT

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 Milwaukee,  
Wisconsin, this 17th day of December, 2020

\s \_\_\_\_\_  
Debra Bursinger  
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 December 17, 2020.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability

