



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 196854

PRELIMINARY RECITALS

Pursuant to a petition filed on November 20, 2019, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids regarding Medical Assistance (MA), a hearing was held on January 6, 2020, by telephone. A hearing scheduled for December 9, 2019, was rescheduled at the petitioner's request.

The issue for determination is whether the department correctly counted the income of the mother of the petitioner's children when determining his eligibility for medical assistance..

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[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]

Wood County Human Services - WI Rapids
111 W Jackson St
Wisconsin Rapids, WI 54495

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Ashland County.
2. [REDACTED], the mother of the petitioner's children, has lived with him and his children since at least 2015. They have never been married.
3. The petitioner's income is under \$900 per month. [REDACTED]'s countable income is \$3,478.50 per month.
4. The department seeks to end the petitioner's Elderly, Blind, and Disabled Medicaid benefits because it determined that his household income exceeded the program's income limit.

DISCUSSION

The petitioner receives Elderly, Blind, or Disabled Medicaid benefits. The program has low income limit that varies with whether the household is considered to have one or two members and with shelter costs. *See Medical Eligibility Handbook*, § 39.4. The department seeks to end the petitioner's benefits because it contends that [REDACTED], the mother of his children, is married to and lives with him. As a result, her income is included when determining he is financially eligible for benefits. The parties agree that his continued eligibility depends upon whether her income is counted.

The preponderance of the evidence establishes that petitioner is not married to [REDACTED]. Both testified that they have never been married, and the department has not submitted a marriage license or any other documentation of their marriage. They did have a commitment ceremony about two decades ago, and [REDACTED] took the petitioner's last name soon after that, but neither makes them legally married.

[REDACTED]'s income only counts when determining the petitioner's eligibility if she is his spouse or legally responsible for him. *See Medical Eligibility Handbook*, § 15.1.1. Because she is not his spouse or guardian, her income does not count; because the department seeks to end his benefits solely because her income would put him over the program's limit, he remains eligible for Medicaid..

CONCLUSIONS OF LAW

1. The income of the mother of the petitioner's children does not count when determining the petitioner's eligibility for the Elderly, Blind, and Disabled Medicaid benefits because they are not married and she is not legally responsible for him.
2. The petitioner remains eligible for Elderly, Blind, and Disabled Medicaid benefits.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it reinstate the petitioner's Elderly, Blind, and Disabled Medicaid benefits retroactive to December 1, 2019.

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.

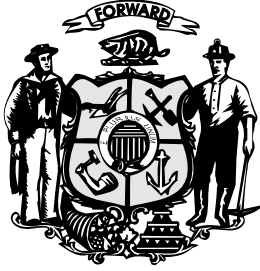
APPEAL TO COURT

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 14th day of February, 2020

\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 February 14, 2020.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability

