



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 208349

PRELIMINARY RECITALS

Pursuant to a petition filed April 17, 2023, under Wis. Stat., §49.45(5), to review a decision by the [REDACTED] Dept. of Social Services regarding Medical Assistance (MA), a hearing was held on June 7, 2023, by telephone.

The issue for determination is whether petitioner’s MA can be backdated to October and November, 2022 because of difficulties obtaining verification of cash values.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Norene Meidl

[REDACTED] Dept. of Social Services
811 Harding Street
[REDACTED], WI 54981-2087

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) was a resident of [REDACTED] County. He died on [REDACTED], 2023.

2. An application for institutional MA was filed on October 25, 2022, seeking MA back to July, 2022. Petitioner's daughter was the authorized representative. Concurrently an application was filed for his wife in another county (her application is not at issue in this appeal). Petitioner's October 25 application was denied November 28, 2022, due to lack of verification.
3. A new application was filed on December 1, 2022, seeking a backdate to September 1, 2022. That application was denied for failure to verify on January 3, 2023.
4. No timely appeal was filed concerning the first two denials.
5. A third application was filed on January 18, 2023, now seeking a backdate to October 1, 2022. The case was pended for additional verifications, but notably petitioner's daughter had not been able to secure the cash values of the couple's [REDACTED] policies. Petitioner's daughter asked for an extension on February 8 and the due date for verification was extended to February 27, 2023. Again, the primary difficulty was securing the life insurance cash values (also missing was a title to a vehicle that never was found, but the vehicle's value ended up having no bearing on eligibility).
6. Petitioner's daughter requested another extension on February 23, but it was denied because only one extension is allowed. The January 18, 2023 application was denied by a notice dated February 27, 2023. The notice included language that petitioner could appeal, with the last possible day to appeal being April 17, 2023. This appeal was filed on April 17, 2023.
7. A fourth application was filed on March 3, 2023. While that one was pending the life insurance companies finally forwarded the cash values dating back to 2022. Petitioner was found eligible retroactive to December 1, 2022 (three months prior to the March 3, 2023 re-application). Petitioner's daughter filed this appeal seeking coverage back to October 1, 2023.

DISCUSSION

The MA asset limit for a couple is \$3,000. Wis. Stat., §49.47(4)(b)3g. If assets are above that limit, the couple is not eligible for MA.

An MA recipient is required to verify information that can affect eligibility. Wis. Admin. Code, §DHS 102.03. If the household fails to verify required information by the time limit, the agency may deny the benefits. Wis. Admin. Code, §DHS 102.03(1). The agency should assist the applicant if she requests assistance. MA Handbook, App. 20.1.4. If sources of verification are unavailable, the agency should use the best information available. Id.

The Handbook, App. 20.8.3, provides as follows:

Deny or reduce benefits when all of the following are true:

1. The member has the power to produce the verification.
2. The time allowed to produce the verification has passed.
3. The member has been given adequate notice of the verification required.
4. The requested verification is needed to determine current eligibility. Do not deny current eligibility because a member does not verify some past circumstance not affecting current eligibility.

This was an unusual case because, by the January 18, 2023 application, it was evident that the major issue for petitioner's daughter/representative was obtaining the cash values of the life insurance policies. Every time a new application was filed, another item or two needed to be verified, but those items always were verified timely. Case comments show that petitioner's daughter complained that she was not getting cooperation from the insurance companies.

Importantly to this case, an exemption to the asset rules is if an asset cannot be made available within 30 days. See MA Handbook, App. 16.2.1. I know, in hindsight, that the cash values were not available within 30 days simply because petitioner's daughter was making unsuccessful efforts to get the information. Furthermore, when the cash values were finally obtained, it was clear that petitioner was asset eligible in late 2022. The only reason MA was not backdated to October 1 was because the county agency had to utilize the March application date.

I am able to review the denial of the January, 2023 application because petitioner appealed the denial timely. It is clear to me that (1) petitioner's daughter was attempting to get the verification of her parents' life insurance policies, (2) her parents were not able to help her, and (3) that the cash values were unavailable for at least 30 days because the insurance companies were not responding to her attempts to get the information. Finally, as it turned out the cash values did not negatively impact MA eligibility.

Under these unusual circumstances, I will order that petitioner's institutional MA be backdated to October 1, 2022, based upon the January 18, 2023 application date. Petitioner was asset eligible, and with the January application date, eligibility could be backdated to October 1, 2022.

CONCLUSIONS OF LAW

Petitioner's institutional MA should be backdated to October 1, 2022 because his representative made reasonable efforts to verify his assets, and the assets, when finally verified, did not cause petitioner to be ineligible for MA.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to grant, within 10 days of this decision, petitioner's institutional MA retroactive to October 1, 2022.

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

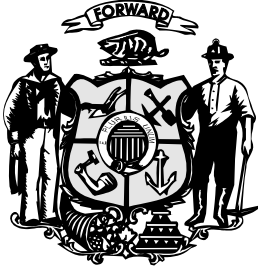
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 13th day of June, 2023



\s _____
Brian C. Schneider
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 June 13, 2023.

██████████ Department of Social Services
Division of Health Care Access and Accountability