



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MGE - 209934

PRELIMINARY RECITALS

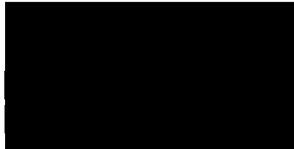
Pursuant to a petition filed on August 22, 2023, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services regarding Medical Assistance (MA), a hearing was held on September 20, 2023, by telephone.

The issue for determination is whether the agency correctly counted sports collectibles and memorabilia as an available asset for long-term care Medicaid purposes.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: K. Smith

Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Lincoln County.
2. On August 9, 2023, the agency issued a notice to petitioner informing him that he was not eligible for long-term care Medicaid due to his assets exceeding the asset limit.
3. Asset value was determined by information provided by petitioner including receipts from purchase.
4. The items in question include a Joe Montana jersey, autographed items, sports cards, and what petitioner's representative described as "a lot of small items").
5. Petitioner owns various items of sports collectibles and memorabilia. Among the items are
6. The agency denied the application on the basis of petitioner being over assets due to tens of thousands of dollars' worth of sports collectibles being available assets.
7. Petitioner requested a fair hearing.

DISCUSSION

To be certified for Institutional MA, a person cannot have nonexempt assets in excess of \$2,000. Wis. Stat. §49.47(4)(b)3, Medicaid Eligibility Handbook (MEH), § 39.4. If available assets are above that limit, the person is not eligible for MA. Assets must be included if they are available. MEH § 16.1. Available assets generally include: Joint accounts. (16.4.1 Joint Accounts); ... Savings account; Checking account; Cash available.... MEH § 16.1. But, available assets can also be liquid assets including personal property. MEH § 16.7.1.3. Among the categories of personal property that is considered an available asset is "collectibles acquired or held because of their value or as an investment."

First, petitioner does not dispute the determination of fair market value in this case. Petitioner concedes that the value exceeds the asset limit and approaches or exceeds \$35,000. This value was established for the county by consideration of the receipts for purchase by the family.

In this case, petitioner's son argued that the tens of thousands of dollars' worth of sports memorabilia is not an asset for Medicaid purposes. He explained that the items are not truly available as it would take some time to sell the items for fair market value. But, the availability definition in MEH § 16.2.1 does not contemplate the sale price of the asset upon its liquidation:

An asset is available when:

1. *It can be sold, transferred, or disposed of by the owner or the owner's representative, and*
2. *The owner has a legal right to the money obtained from sale of the asset, and*
3. *The owner has the legal ability to make the money available for support and maintenance, and*
4. *The asset can be made available in less than 30 days.*

Consider an asset as unavailable if either:

1. *The member lacks the ability to provide legal access to the assets, and*
2. *No one else can access the assets, and*
3. *A process has been started to get legal access to the assets.*

MEH § 16.2.1. Petitioner could likely liquidate the items at a discount fairly quickly for an amount well in excess of the \$2,000 asset limit. This could assist with covering the cost of petitioner's care until petitioner is eligible. It is petitioner's choice if he prefers not to do that. Instead, petitioner prefers to keep the sports collectibles while Wisconsin taxpayers cover his care. This does not make sense.

Furthermore, he argued, the items are more appropriately considered recreational items that should be excluded from assets under the provision excluding "[e]ducational or recreational items such as books or musical instruments. See MEH § 16.7.1.3. He reasoned that since his father takes joy from the presence of the items and takes time looking through them that they really are "recreational."

This is not a close case. I find the petitioner's argument without any merit whatsoever. Wisconsin Medicaid is a program providing health care for those Wisconsin residents in poverty. Petitioner argues for his right to keep \$30,000 in baseball cards and autographed football jerseys. Not to be overlooked is the fact that upon petitioner's passing those items will likely be a windfall for whomever inherits them. This argument is, or at least borders on, frivolous. Petitioner's position fails.

CONCLUSIONS OF LAW

1. The petitioner is not eligible for long-term care Medicaid because his assets exceed \$2,000.
2. The county was correct to count various sports memorabilia, souvenirs, and collectibles as available assets.

THEREFORE, it is

ORDERED

That this appeal is dismissed.

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

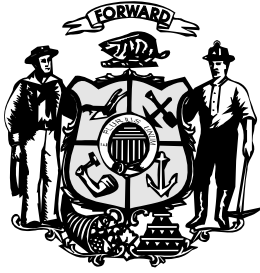
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision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

A handwritten signature in blue ink, appearing to read "John P. Tedesco", is written over a horizontal line.

John P. Tedesco
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 November 13, 2023.

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