



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 209372

PRELIMINARY RECITALS

Pursuant to a petition filed July 14, 2023, under Wis. Stat., §49.45(5), to review a decision by Milwaukee Enrollment Services to discontinue Medical Assistance (MA), a hearing was held on August 9, 2023, by telephone.

The issue for determination is whether the agency correctly closed MA because assets were over the limit.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Kyra Oberg
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has received MA continuously during the pandemic. Included with his benefits was the Qualified Medicare Beneficiary (QMB), a program that covers Medicare Part B premiums and some MA co-pays. With the end of the pandemic, he was subject to a renewal.

3. Petitioner filed his renewal on June 16, 2023. He reported as assets his home (which is exempt for all MA programs) and a savings account. On June 20, the agency sent petitioner a notice that he had to complete his interview, with a due date of July 10, and that the bank account was being verified through the agency system. Petitioner completed the interview timely.
4. As it turned out the system was unable to verify the bank account. On July 3, 2023, the agency sent petitioner a notice that he needed to provide verification of the bank account, still with a due date of July 10. The due date was incorrect; he should have been given more time. Nevertheless, petitioner filed his bank statement by July 10. However, it was not processed until July 11, and in the meantime the system sent him a notice dated July 11 that MA and QMB would end August 1, 2023 because he did not verify assets.
5. Upon processing the verification, it was discovered that petitioner had a savings account with a balance of \$4,858.41 along with a checking account with a balance of \$3,172.98. Because petitioner's monthly \$1,076 social security was auto-deposited into his saving account, that amount was deducted in determining the value of the accounts. Even after deducting the social security, petitioner's two accounts totaled \$6,955.39.
6. On July 12, 2023, the agency sent a new notice, informing him that he remained eligible for QMB, but that MA would end August 1 because assets were over the limit. MA was continued pending this decision.

DISCUSSION

The MA asset limit for an individual is \$2,000. Wis. Stat., §49.47(4)(b)3g. 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. In determining the value of a bank account in a given month, the agency does not count income received in that month. MA Handbook, Appendix 16.1.

When petitioner's asset verification was processed, his bank accounts totaled well over \$2,000, a fact that petitioner did not dispute at the hearing. Petitioner's sole argument was that the agency deprived him of due process by sending out the July 11, 2023 notice that his benefits would end because he failed to verify assets. The notice indeed was incorrect for two reasons – the July 3 verification notice did not appropriately add time to the deadline, and even more importantly, petitioner actually filed the verification by the July 10 deadline.

Petitioner's position is that because the July 11 notice violated his due process rights, he should remain eligible for MA for, apparently, forever? He also states that closing his MA would negatively impact his health.

While it is true that the agency erred in sending out the July 11 discontinuance notice, the remedy is not, as petitioner suggests, to continue his MA indefinitely. The remedy is to correct the error. The agency did that the very next day by sending out the July 12 notice informing petitioner that his assets were over the MA limit, but that QMB remained open (because the asset limit for QMB is much higher than the regular MA limit). Petitioner had more than enough time to appeal, and he did so early enough so that MA was ordered to be continued pending his appeal.

Petitioner simply is incorrect that he should continue to receive MA because the agency sent the erroneous July 11 notice. The simple and uncontested fact is that petitioner's assets are over the MA limit. There are two ways for petitioner to resolve the problem. First, reduce the amounts of the bank accounts to under

\$2,000 (recalling that the agency will always deduct the \$1,076 monthly social security payment from the account balance). Petitioner can do that by purchasing exempt goods (such as household goods or a burial plan) or paying outstanding bills. In lieu of reducing assets, petitioner can look into the Medicaid Purchase Plan (known as MAPP), an MA program with higher asset limits for which petitioner can qualify by doing some sort of work for pay (it can be minimal work for minimal pay; petitioner can discuss it with a Milwaukee Enrollment Services representative). Ms. Oberg testified that she attempted to contact petitioner to discuss these options, but he did not respond. I urge him to attempt either option; he needs to simply call the agency number. If he reduces his assets, he simply needs to report the change, as his continued MA benefits will run at least until the end of August, 2023.

CONCLUSIONS OF LAW

Although the agency sent an erroneous notice telling petitioner that MA would end August 1, 2023 because he failed to verify assets, it corrected the error the next day by issuing an amended notice that informed petitioner that MA would close August 1 because verified assets were over the MA limit.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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

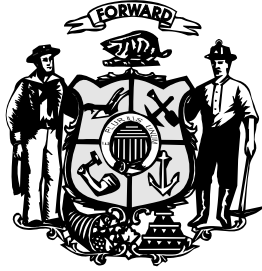
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 11th day of August, 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 August 11, 2023.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability