



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: MAP - 212440

PRELIMINARY RECITALS

Pursuant to a petition filed March 1, 2024, under Wis. Stat., §49.45(5), to review a decision by the Oconto County Dept. of Health and Human Services to deny Medical Assistance (MA), a hearing was held on April 10, 2024, by telephone.

The issue for determination is whether the agency correctly denied MA for failure to verify.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Marsha Orth
Oconto County Dept. of Health and Human Services
501 Park Avenue
Oconto, WI 54153-1612

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) was a resident of Oconto County. He died [REDACTED].
2. An application was filed on petitioner's behalf on November 29, 2023 requesting MA with a 3-month backdate. Petitioner resided with his wife, who was his authorized representative. She

listed a number of assets, and while reviewing the case, the worker found a number of other assets that had been reported in prior applications for benefits.

3. The agency did not begin to process the application until December 13, 2023. At the time petitioner also was seeking Community Waivers MA, but his death occurred before that part of the application could be completed.
4. Several verification items were filed with the application, but on December 15, 2023, the agency requested verification of other assets, with a due date of January 3, 2024. Some of those assets were accounts no longer in existence and vehicles no longer owned.
5. On December 21 petitioner's wife reported, in a phone contact, vehicles that were no longer owned, that some of the accounts were the same but under different company names, and that some of the accounts were closed.
6. On December 21, 2023, the agency sent a second verification request for verification with a due date of January 3, 2024.
7. On December 22, 2023, the agency sent petitioner a notice denying BadgerCare Plus MA and SLMB+ Medicare assistance. Those programs are not at issue in this appeal.
8. On December 28 petitioner's wife contacted the worker. She reported having difficulty tracking down some of the account information of closed accounts, and also that she was having trouble because of name changes of companies and that an IRA account only provided quarterly statements.
9. On December 29, 2023, the agency sent a third verification request for assets, with a due date of January 12, 2024.
10. Petitioner's wife filed a number of verification items on January 5, 2024. The worker found that there still were some items that were not verified satisfactorily.
11. On January 8, 2024, the agency sent a fourth verification request for [REDACTED] accounts and a 1934 vehicle, with a due date of January 12. Those items were not received by the due date.
12. On January 15, 2024, the agency issued a denial notice for Medicaid, Community Waivers, and the Medicaid Purchase Plan (MAPP) because verification was not provided. The Medicaid and Community Waivers denial are not at issue in this appeal. Petitioner's wife filed this appeal of the denial on March 1, 2024, the last day of the time for appealing the denial.
13. While the appeal was pending petitioner's wife filed a new application for MAPP in February, 2024. All verification was received, and MAPP was approved for November and December, 2023, as the application could be backdated only to November 1 due to the 90-day backdating limit. Assets in the three months prior to November, 2023 were essentially the same in in November.

DISCUSSION

The MAPP program allows disabled individuals to work but to retain eligibility for MA. Wis. Stat., §49.472; MA Handbook, Appendix 26.1. If net income is below 250% of the federal poverty level, the

person is eligible for the program. Wis. Admin. Code, §DHS 103.03(8)(b); Handbook, App. 26.4.2. In this instance income was below the limit for the entire period. The asset limit is \$15,000, but importantly for this case, only the assets in the individual's name are counted. See Handbook, App. 39.4.1 for the limit, and App. 26.4.1 for the policy that only the individual's assets are counted. Assets held jointly with a spouse are counted at one-half the value for the applicant. This is important because, although petitioner was not working at any time during the period from August through October, the work requirement for MAPP was lifted due to pandemic policy, as testified to by Ms. Orth. That is why petitioner was granted MAPP eligibility for November and December.

The issue, therefore, is whether the agency was correct to deny MAPP eligibility based on the November 29, 2023 application for failure to verify.

An MA applicant 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.

The MA Handbook, §2.7, provides:

All applications received by an agency must be processed and eligibility approved or denied as soon as possible. The health care application processing period is 30 days. This means that, as a rule, the agency must process the application, determine eligibility, and issue a notice of decision no later than the 30th calendar day after the date on which the application is received by the agency (or the next business day if the 30th day falls on a weekend or holiday). However, the application processing period is extended as needed to ensure the applicant has at least 20 days from the mailing date of a verification request to provide verification.

Further, the Handbook provides at §20.8.3:

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

- The applicant or member has the power to produce the verification.
- The time allowed to produce the verification has passed.
- The applicant or member has been given adequate notice of the verification required.
- The requested verification is needed to determine current eligibility. Current eligibility cannot be denied for lack of verification of a past circumstance that does not affect current eligibility.

Here the 30th day after the application was December 29, 2023. The agency granted petitioner's wife additional time to verify, but only until January 12. However, the policy allows up to 20 days from the verification request, and the January 8 request allowed petitioner's wife only four days, until January 12 (20 days from December 29 was January 18). Furthermore, benefits should be denied only if the person has the power to produce the verification. By early January it was apparent that petitioner's wife was struggling to gather the voluminous verification requested by the agency, particularly the information about closed accounts.

As we know now, petitioner's wife finally was able to verify everything satisfactorily after filing the new application. That said, I conclude that she was not given sufficient time to complete the verification requirements of the November 29, 2023 application, and thus it was an error to deny that application. The result, therefore, is that the agency should determine eligibility back to August 1, 2023, the earliest date

petitioner could be determined to be eligible based upon the November 29 application date. Petitioner's wife testified that assets were essentially the same in those three months as in November, so petitioner should be eligible. Nevertheless, I will remand the matter to the agency to determine eligibility based upon the verified assets, in case there actually was a change during that period.

CONCLUSIONS OF LAW

The agency erred in denying petitioner's November 29, 2023 MA application because it did not give his representative sufficient time to verify assets and non-existence of assets.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to determine petitioner's MAPP eligibility for August through October, 2023 based upon the assets that have been verified subsequent to the denial in this matter. The agency shall do so within 10 days of this decision.

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

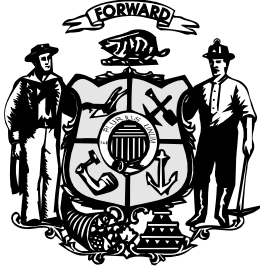
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 16th day of April, 2024



\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 April 16, 2024.

Oconto County Department of Health And Human Services
Division of Health Care Access and Accountability