



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: MGE - 213928

PRELIMINARY RECITALS

Pursuant to a petition filed on June 24, 2024, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services regarding Medical Assistance (MA), a hearing was held on October 29, 2024. At that time, it was determined that another hearing date was necessary and a hearing was held on January 8, 2025, by telephone.

The issue for determination is whether the agency correctly processed petitioner's application for MA.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[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: Mischelle Paulson
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) was a resident of Waukesha County. He passed away September 22, 2024.
2. [REDACTED], petitioner's current representative, applied for MA on petitioner's behalf on March 21, 2024. The application was denied as it was signed by [REDACTED], however, [REDACTED] was petitioner's Authorized Representative at the time the application was submitted.
3. A second application was submitted by [REDACTED] on May 9, 2024. The agency received thereafter the form appointing [REDACTED] as the new authorized representative.
4. Per the applications, petitioner had two life whole life insurance policies with the face values of \$12,000 and \$7,000. The agency requested verification of the policies.
5. On April 22, 2024 the agency received an undated/unsigned typed statement from [REDACTED] stating that she was unable to obtain any information regarding the policies.
6. On July 1, 2024 the agency issued a notice stating that petitioner was not eligible for MA effective February 1, 2024 because he was over the asset limit.
7. At hearing on October 29, 2024 [REDACTED] [REDACTED] reported that she had since been able to obtain information regarding the cash value of the two policies. She reported that the cash values of the policies were \$1,800 and \$500 at the time of application.

DISCUSSION

Medicaid is a state/federal program that provides health coverage for Wisconsin residents that are elderly, blind, or disabled (EBD) or receive Wisconsin Well Woman Medicaid. Medicaid is also known as Medical Assistance, MA, and Title 19. The EBD fiscal group's assets must be within the appropriate categorically needy or medically needy asset limit before any member of that group can qualify for Medicaid. EBD fiscal groups who have assets in excess of the appropriate EBD medically needy asset limit are ineligible for Medicaid. See *MA Eligibility Handbook* §§ 1.1.1 and 1.1.3.1., available online at <http://www.emhandbooks.wi.gov/meh-ebd/>.

An individual is financially eligible for EBD-MA if the total value of all non-exempt liquid assets does not exceed \$2,000. Wis. Stats. § 49.47(4)(b)3g.e. The clear, unambiguous language of both Wis. Stat. § 49.47(4)(b)3g.e., and Wis. Admin. Code § DHS 103.08(1), states that eligibility cannot exist prior to the date on which all eligibility requirements are met. Until the actual date an individual's liquid assets fall below \$2,000, an individual is ineligible for MA.

One asset that the agency must consider is life insurance. See *MA Eligibility Handbook*, §§ 16.1 and 16.7.5. The cash surrender value (CSV) of life insurance is a countable asset. *MA Eligibility Handbook*, § 16.7.5. For a person who is aged 65 or older, blind, or disabled, the CSV of their life insurance is only counted if the total face value (FV) of all life insurance policies owned by that person exceeds \$1,500. *Id.* Petitioner's application reported a face value of 2 life insurance policies totaling \$19,000. The agency requested verification of the policies but petitioner's representative was unable to provide verification. The agency then denied the application due to being over the asset limit. At the first hearing in this matter, the petitioner's representative testified that she was able to obtain information regarding the cash value of the two policies. She reported that the cash values of the policies were \$1,800 and \$500 at the time of application.

The agency used the best information available to determine petitioner's assets. See *MA Eligibility Handbook*, §§ 20.1.4, 20.3.5, and 20.5. The agency used the information reported by the petitioner's representative, both of which were reporting the policies over the \$2000 asset limit. The cash value reported at hearing totaled \$2300, and thus, was still over the limit.

It is a well-established principle that a moving party generally has the burden of proof, especially in administrative proceedings. State v. Hanson, 295 N.W.2d 209, 98 Wis. 2d 80 (Wis. App. 1980). In a case involving an application for assistance, the applicant has the initial burden to establish he or she met the application requirements. I cannot find under this record that he has met that burden to show he was eligible for MA.

I add, assuming petitioner's representative finds this decision unfair, that I do not possess equitable powers. It is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

Accordingly, I must find that the agency correctly denied petitioner MA coverage due to being over the asset limit.

CONCLUSIONS OF LAW

The agency correctly denied petitioner MA due to being over the asset limit.

THEREFORE, it is **ORDERED**

The petition for review herein 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.

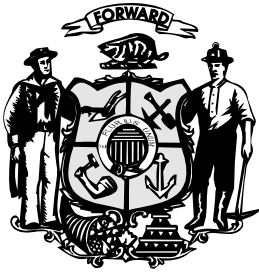
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 17th day of January, 2025

\s _____
Kelly Cochrane
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 January 17, 2025.

Waukesha County Health and Human Services
Division of Health Care Access and Accountability

[REDACTED]