



FH  
[REDACTED]

**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

---

In the Matter of

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

**DECISION**  
Case #: MGE - 216362

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed on December 17, 2024, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marinette County Health & Human Services regarding Medical Assistance (MA), a hearing was held on January 30, 2025, by telephone.

The issue for determination is whether the agency correctly found that Petitioner was not eligible for Institutional Medical Assistance in October 2024 as a result of owning countable assets in excess of \$2,000.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

**Petitioner:**

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

**Petitioner's Representative:**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Respondent:**

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

By: Kelly Bruelle

Marinette County Health & Human Services  
Entrance B  
1925 Ella Court  
Marinette, WI 54143

**ADMINISTRATIVE LAW JUDGE:**

Teresa A. Perez  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) was formerly a resident of Marinette County. She died on November 30, 2024 at which time she was unmarried.
2. Petitioner filed an application for Institutional Medical Assistance on October 24, 2024.
3. Petitioner owned combined countable assets of \$2,015.27 as of the last day of October 2024. As of the last day of November 2024, that amount was reduced to less than \$2,000.
4. By notice dated October 30, 2024, the agency informed Petitioner's daughter, who was acting as her power of attorney, that Petitioner was not eligible for Nursing Home Long-Term Care for October 2024 because her assets exceeded the program limit.
5. By notice dated November 18, 2024, the agency informed Petitioner's daughter that Petitioner was eligible for Nursing Home Long-Term care for the month of November 2024.
6. Petitioner filed an appeal.

## DISCUSSION

To be eligible for "Elderly / Blind / Disabled Medicaid" ("EBD Medicaid"), a category that includes Institutional Medical Assistance (also referred to as "Nursing Home Long Term Care"), an unmarried individual may not own countable, available assets in excess of \$2,000. *Medicaid Eligibility Handbook (MEH)* §§16.1, 27.5.1, and 39.4.1.

Income received in a month is not counted as an asset unless and until it is retained into the following month. *MEH* §16.1.

The agency here contended that Petitioner was not eligible for Institutional Medicaid in October 2024 because her countable assets exceeded \$2,000 as of the last day of that month and provided documentation of Petitioner's savings account which demonstrated that to be true.

Petitioner's surviving daughter, who appeared at hearing, did not dispute that Petitioner's countable assets exceeded \$2,000 as of October 31, 2024. Rather, she argued that her mother, whose monthly income was \$889, who died with less than \$2,000 in countable assets, and who had set aside a modest amount for burial was in a demographic of people who the Medical Assistance program is intended to serve. She also testified that she believes Petitioner's family was not given the best advice by the Aging and Disability Resource Center. I cannot comment on the adequacy of the advice the family received. However, I understand the frustration of Petitioner's daughter.

I understand that the circumstances in this case have caused additional stress at an already difficult time for Petitioner's family. I also understand that this decision will likely result in the skilled nursing facility not receiving full payment for care provided to Petitioner in the month of October 2024. However, as an administrative law judge, I am required to apply the laws and regulations as they are written. The relevant law here provides no leeway and I thus have no discretion to order the agency to find Petitioner eligible in a month that her assets exceeded the program limit by any amount.

### **CONCLUSIONS OF LAW**

Petitioner's countable available assets, as of October 31, 2024, exceeded \$2,000; the agency thus correctly found that she was not eligible for Institutional Medical Assistance in that month.

**THEREFORE, it is**

**ORDERED**

That Petitioner's 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, 5<sup>th</sup> 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.

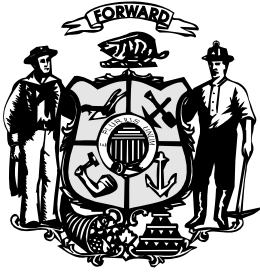
### **APPEAL TO COURT**

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 4th day of March, 2025

\s \_\_\_\_\_  
Teresa A. Perez  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
5<sup>th</sup> Floor North  
4822 Madison Yards Way  
Madison, WI 53705-5400

Telephone: (608) 266-7709  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 4, 2025.

Marinette County Health & Human Services  
Division of Health Care Access and Accountability