



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MGE - 220279

PRELIMINARY RECITALS

Pursuant to a petition filed on October 2, 2025, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on November 19, 2025, by telephone.

The issue is whether the Division of Hearings and Appeals has present jurisdiction.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

Petitioner's Representative:



Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703

By: Kyra Oberg
Milwaukee Enrollment Services
6055 N. 64th Street
Milwaukee, WI 53218

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a former resident of Kenosha County.

2. Petitioner relocated to New York in late October 2025 where he now resides in a skilled nursing facility. He does not intend to return to Wisconsin.
3. In July 2025, Petitioner was residing in a skilled nursing facility in Wisconsin. At that time, she had approximately \$7,998 of funds held in bank accounts. Of that, he intended more than \$1,500 to be used for burial expenses.
4. Petitioner applied for and received Institutional Medical Assistance in Wisconsin from July 8, 2025 through October 31, 2025.
5. In September 2025, the agency discovered that it had opened Petitioner's Medical Assistance in error by failing to note that Petitioner owned more than \$2,000 in countable, available assets.
6. Via notice dated September 26, 2025, the agency informed Petitioner that his Medical Assistance would close as of November 1, 2025 because his countable assets exceeded the program limit.
7. Petitioner filed an appeal with the Division of Hearings and Appeals because he believes that he should be allowed to designate more than \$1,500 as a burial fund.

### DISCUSSION

To be eligible for 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. And, those assets must be verified.

There are several types of burial assets that are considered exempt and thus do not count towards the \$2,000 asset limit. For example, \$1,500 of "burial funds", as described and under the conditions set forth in *Medicaid Eligibility Handbook*, Sec. 16.5.5, may be exempt. Consistent with that policy, the agency correctly determined that Petitioner could not designate more than \$1,500 of the funds in his bank account as a "burial fund" and that the remaining countable funds in his bank accounts exceeded the \$2,000 program limit.

Petitioner's daughter appeared at hearing and argued that the agency was not properly applying Medicaid policy or statute. Specifically, she argued that the amount her father had set aside for burial was a reasonable amount and that the agency's decision frustrated the intent of setting aside money for burial. However, as the agency's representative stated at hearing, Medicaid policy provides ways for a person to protect more than \$1,500 for burial expenses; for example, by setting up an irrevocable life insurance funded burial contract. See, *Medicaid Eligibility Handbook* Sec. 16.5.1, et. seq. Petitioner also explained that her father has incurred significant medical bills and moving expenses. That is not, however, relevant to the issue here.

During the hearing, Petitioner's daughter testified that her father moved to New York in late October 2025 and does not intend to return. Under these circumstances, the Division of Hearings and Appeals has no authority to continue his Institutional Medical Assistance. He must apply with the State of New York. Even if the Division of Hearings and Appeals did have jurisdiction, I would find that the agency properly terminated Petitioner's eligibility because it never received verification showing that his bank account funds, less a \$1,500 burial fund designation, had been sufficiently reduced.

### CONCLUSIONS OF LAW

The Division of Hearings and Appeals does not have jurisdiction to continue Petitioner's Institutional Medical Assistance beyond November 1, 2025 because he no longer resides in Wisconsin.

**THEREFORE, it is**

**ORDERED**

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.

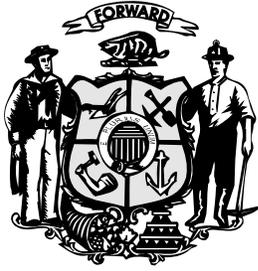
**APPEAL TO COURT**

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, 201 E. Washington Ave., **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 28th day of January, 2026

\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 January 28, 2026.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability

