



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 180617

PRELIMINARY RECITALS

Pursuant to a petition filed on April 10, 2017, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services regarding Medical Assistance (MA), a hearing was held on June 6, 2017, by telephone.

The issue for determination is whether the agency correctly denied the Petitioner's application for Medicaid benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED], Staff Development Specialist
Outagamie County Department of Human Services
401 S. Elm Street
Appleton, WI 54911-5985

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County.
2. On January 20, 2017, the Petitioner applied for Medicaid Benefits.

Life Insurance

3. At the time of application, the Petitioner had insurance with a face value of \$3,900, with a cash surrender value of \$3,390.75. It was labeled as a "Funeral Plan". (Exhibit 6)
4. In Petitioner's Medicaid Application, no specific burial insurance was listed, but next to the words "Section 7 – Burial Assets", Petitioner wrote in "SSA – Puerto Rico [REDACTED]". This turned out to be a reference to the "Funeral Plan" policy. (Exhibit 5 and Exhibit 6)
5. On February 20, 2017, the agency sent the Petitioner a notice, indicating that her application was denied because she was over the asset limit. (Exhibit 9)
6. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 10, 2017. (Exhibit 1)

DISCUSSION

In order to be eligible for Medicaid Benefits, a one person household must have assets below \$2000.00. *Medicaid Eligibility Handbook (MEH) §39.4.1* The cash value of life insurance policies must generally be counted as an asset. *MEH §16.7.5*

Although, the Petitioner's insurance plan was labeled a "Funeral Plan", it had a cash surrender value. Per *MEH §16.5.2*, if a policy has a cash surrender value it is considered life insurance, not burial insurance. Accordingly, per *MEH §16.7.5* The cash value must be counted. In this case, it was \$3,390.75.

Consequently, Petitioner was over the \$2000 asset limit.

Petitioner's representative argues that the Petitioner should be found eligible had the agency informed the Petitioner in January of the asset issue, that she would have cashed out the policy and purchased an irrevocable burial trust, so that she would meet eligibility requirements for the month of January, but because the agency did not inform Petitioner of the problem with her "Funeral Plan" insurance policy, she was not able to make the necessary change until April 2017. Petitioner's representative also argues that it is unfair to deny the Petitioner Medicaid eligibility, because she went into a nursing home, based upon assurances that she would be found eligible for Medicaid, but now must pay \$10,000 in nursing home costs, because she was over the asset limit for Medicaid.

Petitioner's arguments are equitable in nature, meaning they are not based upon what the law requires, but are instead based upon what the Petitioner believes is fair. However, Administrative Law Judges do not have equitable authority, but must instead follow the law as it is written.

CONCLUSIONS OF LAW

The agency correctly denied the Petitioner's January 2017 application for Medicaid benefits, because the Petitioner was over the asset limit.

THEREFORE, it is

ORDERED

That the petition 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, 5005 University Avenue, Suite 201, 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 12th day of June, 2017

\s _____
Mayumi M. Ishii
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 June 12, 2017.

Outagamie County Department of Human Services
Division of Health Care Access and Accountability

