



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: MDV - 221203

PRELIMINARY RECITALS

Pursuant to a petition filed December 17, 2025, under Wis. Stat., §49.45(5), to review a decision by the Grant County Dept. of Social Services to deny Medical Assistance (MA), a hearing was held on February 4, 2026, by telephone.

The issue for determination is whether the county agency correctly determined a divestment penalty.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Briana Kraak
Grant County Dept. of Social Services
PO Box 447
Lancaster, WI 53813

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Grant County.

2. An application for nursing home MA was filed for petitioner on October 21, 2025. During the process the agency found a pattern of gifting from petitioner to relatives, primarily her son and daughter-in-law.
3. The agency determined that there was a divestment of \$110,973.88 in the five years prior to petitioner's application. Because he had no records, petitioner's son was unable to show that the withdrawals were used on petitioner's behalf. By a notice dated December 2, 2025, the agency informed petitioner that although she was eligible for nursing home MA, there was a penalty period from October 1, 2025 through August 21, 2026 due to a \$110,973.88 divestment.

DISCUSSION

When an individual, the individual's spouse, or a person acting on behalf of the individual or his spouse, transfers assets at less than fair market value, the individual is ineligible for MA coverage of nursing facility services. 42 U.S.C. 1396p(c)(1)(A); Wis. Stat., §49.453(2)(a); Wis. Admin. Code, §DHS 103.065(4)(a); MA Handbook, Appendix 17.2.1. Divestment does not impact on eligibility for standard medical services such as physician care, medications, and medical equipment (all of which are known as "MA card services" in the parlance). The penalty period is the number of days determined by dividing the value of property divested by the average daily nursing home cost to a private pay patient (\$340.99 in 2025). MA Handbook, App. 17.5.2.

Here there were transfers from petitioner to family members of over \$100,000 leading up to her moving into the nursing home. One exception to divestment rules is if the transfers were for reasons exclusive of potential MA eligibility, but it was described here that petitioner began to gift her assets "while she was still alive," so it is almost assured that her future health care was at least part of the reason for the gifting. Petitioner's son was given ample opportunity to show that the gifted money was spent on petitioner's behalf, but he admitted that he had no records of how the money was spent.

The simple conclusion is that this is classic divestment. Petitioner gifted money without receiving value in return, within five years of applying for MA. The amount is based on petitioner's inability to show how the money was spent; withdrawals that had records of being used on petitioner's behalf were not counted in the divestment.

CONCLUSIONS OF LAW

The agency correctly determined that petitioner divested \$110,973.88 prior to applying for nursing home MA.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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.

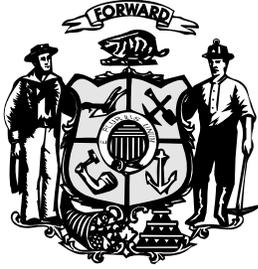
APPEAL TO COURT

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, 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 9th day of February, 2026

\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 February 9, 2026.

Grant County Department of Social Services
Division of Health Care Access and Accountability