



STATE OF WISCONSIN  
DEPARTMENT OF HEALTH & SOCIAL SERVICES

In the Matter of

DECISION

MRA-69/#84996

P R E L I M I N A R Y R E C I T A L S

Pursuant to a petition filed November 16, 1994, under sec. 49.45(5), Wis. Stats., to review a decision by the Waushara County Dept. of Social Services regarding Medical Assistance (MA), a hearing was held on December 8, 1994, at Wautoma, Wisconsin. The record was held open seven days to allow the petitioner to submit a list of monthly expenses; the list was received and is included in the record.

The issue for determination is whether petitioner should be allocated some of his institutionalized wife's income as allowed by Spousal Impoverishment rules.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Wisconsin Dept. of Health & Social Services  
Bureau of Welfare Initiatives  
1 W. Wilson St., Room 350  
P.O. Box 7851  
Madison, WI 53707-7851  
By: Joyce Jenson, ESS  
Waushara County Dept. of Social Services  
P.O. Box 898  
Wautoma, WI 54982

**EXAMINER:**

Brian C. Schneider, Attorney  
Department of Health & Social Services

F I N D I N G S O F F A C T

1. Petitioner (Wife's SSN \_\_\_\_\_, CARES No. \_\_\_\_\_) is a resident of Waushara County.
2. Petitioner's wife \_\_\_\_\_ resides in a nursing home and receives MA. Petitioner is a community spouse as that term is used under the provisions of Spousal Impoverishment rules. He currently resides alone.

3. \_\_\_\_\_ receives \$420 per month in social security. Petitioner's income is \$2,148 per month. Because petitioner's income is greater than the Spousal Impoverishment Community Spouse Income Allowance maximum of \$1,816, none of \_\_\_\_\_ income is allocated to him. As a result, \_\_\_\_\_ required monthly cost of care amount is \$380 (\$420 minus the \$40 personal needs allowance).

4. Petitioner made a request to receive part or all of \_\_\_\_\_ income.

#### D I S C U S S I O N

In 1994, the maximum Community Spouse Income Allocation is \$1,812. MA Handbook, Appendix 23.6.0. That is the amount that, under the statutory Spousal Impoverishment rules, a community spouse is allowed to keep from total family income, if the community spouse's personal income is not that high.

Sec. 49.455(4)(b), Wis. Stats., allows an increase in the monthly community spouse allotment by order of a fair hearing examiner or a court. See also MA Handbook, App. 23.6.0. In order to increase the allotment, the examiner must find exceptional circumstances resulting in financial duress. Sec. 49.455(8)(c), Stats.

Petitioner has not shown such exceptional circumstances. His current income is \$2,148 per month. His listed expenses amount to \$2,268 per month, including an estimate of his prescription medications, which he will have to purchase when his personal health insurance runs out in January, 1995. Thus his expenses are only \$120 more than his income. His expenses include several which appear to be exaggerations to varying degrees, including food at \$200 per month, \$150 per month for "going out," \$167 per month for dental care, \$150 per month for gifts, and \$200 for incidentals. At the hearing, petitioner was unprepared to present his expenses, and it appears that the list presented is exaggerated to end up greater than his income. While I acknowledge that petitioner's expenses may be that high, his list is too vague to make a certain determination that he would suffer financial duress without a higher income allocation than the \$2,148 he receives.

If, in coming months, it is evident to petitioner that he truly cannot make it on just his own income, he can always request a new hearing to seek a higher allocation. If he does, he should be prepared to list, in detail, his expenses to show why he would suffer from financial duress without more monthly income.

#### C O N C L U S I O N S   O F   L A W

Petitioner has not shown that his expenses are such that he would suffer financial duress without a higher income allocation.

NOW, THEREFORE, it is

#### O R D E R E D

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A NEW HEARING

This is a final fair hearing decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a new hearing. You

may also ask for a new hearing if you have found new evidence which would change the decision. To ask for a new hearing, send a written request to Office of Administrative Hearings, P. O. Box 7875, Madison, WI. 53707-7875.

Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST."

Your request must explain what mistake the examiner made and why it is important. Or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

Your request for a new hearing must be received no later than 20 days after the date of this decision. Late requests cannot be granted. The process for asking for a new hearing is in Sec. 227.49 of the state statutes. A copy of the statutes can be found 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 no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one). The appeal must be served on the Department of Health and Social Services as respondent, P. O. Box 7850, Madison, WI 53707-7850.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for Court appeals is in Sec. 227.53 of the statutes.

Given under my hand at the City of  
Madison, Wisconsin, this 27th  
day of DECEMBER, 1994.



Brian C. Schneider, Attorney  
DEPARTMENT OF HEALTH & SOCIAL SERVICES  
1221/bcs

cc: Petitioner  
Waushara Co. DSS