

CR 88-119

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CERTIFICATE

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STATE OF WISCONSIN)
) SS
DEPARTMENT OF HEALTH AND SOCIAL SERVICES)

I, Patricia A. Goodrich, Secretary of the Department of Health and Social Services and custodian of the official records of the Department, do hereby certify that the annexed rules relating to the treatment of life estates and land contracts in determining eligibility for Medical Assistance were duly approved and adopted by this Department on June 6, 1989.

I further certify that this copy has been compared by me with the original on file in the Department and that this copy is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the State Office Building, 1 W. Wilson Street, in the city of Madison, this 6th day of June, 1989.

SEAL:

Stanley York for

Patricia A. Goodrich, Secretary
Department of Health and Social Services

8-1-89

ORDER OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
AMENDING AND CREATING RULES

To amend HSS 103.06(6), and to create HSS 103.06(14) and 103.07(2)(h), relating to the treatment of life estates and land contracts in determining eligibility for Medical Assistance.

Analysis Prepared by the Department of Health and Social Services

To be eligible for Medical Assistance (MA) an applicant or recipient may not have more assets and income than are permitted under s. 49.46(1)(e) or 49.47(4), Stats. The Department's current rules on eligibility for MA address how various assets, including life estates, are counted in determining eligibility but do not mention land contracts. The proposed rules clarify how the value of a life estate and a land contract are counted as assets and how the income received from a land contract is counted in determining eligibility. In the process it is made clear that holding any life estate, and not only one that is in a homestead, will not affect eligibility for MA, and that only life estates held by the applicant or recipient and not the applicant or recipient's spouse are considered.

The Department's authority to amend and create these rules is found in s. 49.45(10), Stats. The rules interpret ss. 49.46(1)(e) and 49.47(4), Stats.

SECTION 1. HSS 103.06(6) is amended to read:

HSS 103.06(6) LIFE ESTATE. The applicant or recipient ~~or that person's spouse~~ may hold a life estate ~~in a homestead~~ without affecting eligibility for MA. If the ~~person leaves the property and it~~ or the life estate is sold, any proceeds received by the applicant or recipient shall be considered assets. In this subsection, "life estate" means a claim or interest a person has in a homestead or other property, the duration of the interest being limited to the life of the party holding it with that party being entitled to the use of the property including the income from the property in his or her lifetime.

SECTION 2. HSS 103.06(14) is created to read:

HSS 103.06(14) LAND CONTRACTS. (a) The applicant or recipient shall obtain a written estimate of the fair market value of a land contract from a source active in the market for land contracts in Wisconsin.

(b) If the applicant's or recipient's vendor interest in a land contract exceeds the medically needy asset limit under s.49.47(4)(b), Stats., the applicant or recipient shall offer the land contract for sale. The applicant's or recipient's vendor interest in a land contract shall be counted as an available asset unless he or she provides written documentation from a source active in the market for land contracts in Wisconsin proving that his or her interest in the land contract cannot be sold.

SECTION 3. HSS 103.07(2)(h) is created to read:

HSS 103.07(2)(h) Income from land contracts. Income received from a land contract shall be counted as unearned income. If the income is received on a monthly basis, it shall be included as monthly income. Payments received on less than a monthly basis shall be prorated to a monthly amount over the period between payments. Any expenses that the applicant or recipient is required to pay under the terms of the land contract shall be deducted from the gross income received from the land contract.

The rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register as provided in s. 227.22(2), Stats.

Wisconsin Department of Health
and Social Services

Dated: June 6, 1989

By:

Patricia A. Goodrich by Stanley York
Patricia A. Goodrich
Secretary

SEAL:



State of Wisconsin \

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
1 West Wilson Street, Madison, Wisconsin 53702

Tommy G. Thompson
Governor

Patricia A. Goodrich
Secretary

Mailing Address:
Post Office Box 7850
Madison, WI 53707

June 6, 1989

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Revisor of Statutes
Bureau

Mr. Orlan Prestegard
Revisor of Statutes
7th Floor - 30 on the Square
Madison, Wisconsin 53702

Dear Mr. Prestegard:

As provided in s. 227.20, Stats., there is hereby submitted a certified copy of HSS 103.06 and 103.07, administrative rules relating to the treatment of life estates and land contracts in determining eligibility for Medical Assistance.

These rules are also being submitted to the Secretary of State as required by s. 227.20, Stats.

These rules concern county administration of a federal-state public assistance program. They do not directly affect small businesses as defined in s. 227.114(1)(a), Stats.

Sincerely,

Patricia A. Goodrich by Stanley York

Patricia A. Goodrich
SECRETARY

Enclosure