

MEDICAID MEMBER ASSET ALLOCATION

This form tells you what you and your spouse need to do with your assets in order for you to keep getting Medicaid benefits. A copy of this form is being provided to you, the Medicaid member getting long-term care services. A copy of this form is also being provided to your spouse who lives in the community. For the purposes of Medicaid, they are referred to as your "community spouse."

Name – Medicaid Member	Name – Community Spouse
Case Number	Date Determined

Your initial asset limit to enroll in a Medicaid long-term care program was calculated based on the countable assets you and your spouse owned as of the date you were first institutionalized or were first determined to need care at a nursing home level. We determined that your combined assets had to be below \$_____ to enroll. This information was sent to you in a separate letter.

When you enrolled, we found that you and your spouse, as a couple, had \$_____ in countable assets, which is below the initial asset limit of \$_____.

By your next renewal date, you, as the Medicaid member, may not have countable assets over \$_____ in your name and stay enrolled in Medicaid.

If you currently have more than \$_____ in countable assets that are in your name, **you may need to transfer up to \$_____ of your assets to your spouse in order to keep getting Medicaid.** This may mean you need to transfer assets that you jointly own with your spouse into your spouse's name **only**. You can also reduce your assets by spending them down in a way that does not result in a divestment penalty (see below).

You have until your next renewal date, which is _____, to make sure that you have no more than \$_____ of assets in your name.

Note: If you and your spouse are **both** getting Medicaid, transferring your assets to your spouse could cause them to lose Medicaid if their assets are over the limit for the program they are enrolled in. In this case, you may need to reduce your assets by spending them down in a way that does not result in a divestment penalty. For more information, please contact your agency.

Divestment

Please note: If you transfer countable assets or property for less than fair market value to anyone other than your community spouse, you may get a divestment penalty. Also, if your spouse transfers countable assets or property to someone for less than fair market value within the first five years after you enrolled in a Medicaid long-term care program, you may have a divestment penalty.

MEDICAID MEMBER ASSET ALLOCATION NOTICE

F-10098 (10/2022)

A divestment penalty is a period of time that you would not be able to get any long-term care services paid for by Medicaid. The length of the penalty is determined by the value of the assets that were transferred.

For more information on divestment, see the Wisconsin Medicaid Divestment fact sheet, P-10058, at www.dhs.wisconsin.gov/library/P-10058.htm.

Fair Hearing

You have the right to ask for and get a fair hearing about the agency's decision on:

- The ownership and availability of assets.
- The computation of the community spouse's asset allocation.
- The amount of the community spouse's asset share.

Please see the attached fair hearing information on when and how to request a fair hearing. Contact your agency for any questions.

MEDICAID/BADGERCARE PLUS FAIR HEARING INFORMATION

Any time your benefits are denied, reduced or ended, and you think the county or tribal office made a mistake, contact the local agency. If the local agency does not agree, you can ask the local office worker to help you in asking for a prehearing conference and a fair hearing.

Prehearing Conference

You may be able to come to an agreement with the local agency through a prehearing conference without having to wait for a fair hearing to take place. At a conference you get to tell your side of the story, and the local agency will explain to you why s/he feels that the action was taken. If the local agency finds that it has made a mistake, it will change its decision and will take corrective action. If the local agency decides that its initial decision is correct, and you feel that the local agency is still wrong, you have the right to go through the fair hearing process.

Please Note: The fact that you agreed to have a prehearing conference doesn't affect your right to have a fair hearing. You can ask for a fair hearing and if you are satisfied with the action of the prehearing conference you can then cancel your fair hearing.

Fair Hearing

A fair hearing gives you the chance to tell why you think the decision about your application or benefits were wrong. At the hearing, a hearing officer will hear from you and the local agency to find out if the decision was right or wrong. You may bring a friend or family member with you to the hearing. You may also get free legal help. (See Legal Help.)

When to Use The Fair Hearing Process

If you believe that your local agency made a wrong decision on your case, the fair hearing process may be used to have the decision reviewed. Examples include:

- Your application was denied or your benefits were suspended, reduced or ended, and you think the local agency made a mistake.
- You believe that your application for BadgerCare Plus was wrongly denied.
- Your application wasn't acted on within 30 days.
- Prior authorization request was denied.

Read each notice or letter of decision carefully to help you understand the action taken. If the reason for the change in your benefits is a federal or state rule change, the Division of Hearings and Appeals needn't grant a request for a fair hearing.

How to Ask for a Fair Hearing

Ask your local agency to help you file for a fair hearing or write directly to:

Department of Administration
Division of Hearings and Appeals
PO Box 7875
Madison WI 53707-7875

Or call 608-266-7709.

If you have access to the internet, the Fair Hearing Request form can be found at www.dhs.wisconsin.gov/forwardhealth/resources.htm. If you chose to write a letter in place of the form, you must include the following:

- Your name
- Your mailing address
- A brief description of the problem
- The name of the local agency that took the action or denied the service
- Your Social Security number
- Your signature

Your request should include the important facts of the matter and your BadgerCare Plus identification number. An appeal must be made no later than 45 days after the date of the action. Your latest notice will have the date by which you must request a hearing.

If you need an accommodation for a disability or an interpreter services, please call 608-266-7709. This telephone number is only for the administrative hearing process.

You or your chosen representative (if any), and the local agency will get written notice of the time, date and place of the hearing at least 10 days before the fair hearing. The hearing will be held in the county where you live.

Preparing for a Fair Hearing

You have the right to bring witnesses, your own lawyer or other advisor to the fair hearing. The agency can't pay for a lawyer to represent you, but they may be able to help you find free legal help for any questions you may have or to represent you at the fair hearing. (See Legal Help to learn more.)

You have the right, both before the hearing and during the hearing, to see the local agency's written materials about the case, including your case record, on which the local agency based its decision.

You or your representative have the right to question anyone who testifies against you at the fair hearing. You also have the right to present your own arguments and bring written materials showing why you think you're right.

If the fair hearing is about whether you are or are not incapacitated or disabled, you have the right to present medical evidence for proof, paid for by the agency.

If you can't speak English or use sign language, you have the right to have an interpreter at the hearing. The Division of Hearings and Appeals may allow payment for translation or interpreters if you ask.

You Can Keep Getting Benefits

If you ask for a fair hearing before the effective date of the local agency's action, you can ask that your benefits not be reduced or ended until after the results of the fair hearing are known. If the fair hearing isn't in your favor, you'll have to repay any benefits that you should not have received. You still must report any required changes while your hearing is pending which may affect the level of your benefits. You must complete any reviews, even if you're asking for a fair hearing.

Effects of the Fair Hearing

If the fair hearing decision is in your favor:

- No action will be taken against you by the local agency.
- Benefits will be reinstated if they were ended.
- The date of reinstatement will be listed in the copy of the decision you get, ordering the local agency to reinstate your benefits.

If the fair hearing decision isn't in your favor, the local agency's action will stand, and you will have to pay back any benefits that you shouldn't have gotten.

Rehearings

After you get the fair hearing decision, you have the right to ask for a rehearing if:

- You have new evidence that you couldn't have made available before the hearing, even if you tried, that could change the decision.
- You feel that there was a mistake in the facts of the decision.
- You feel that there was a mistake in the legal basis of the decision.

The Division of Hearings and Appeals must get a written request for a rehearing within 20 days from the date of the written decision. The state hearing agency will decide within 30 days if a rehearing is justified. If the office doesn't issue a written response to the request in 30 days, it is assumed your request is denied.

Appealing a Fair Hearing or Rehearing Decision

If you don't agree with the fair hearing or rehearing decision, it is still possible for you to appeal to the Circuit Court in your county. This must be done within 30 days after you get the written decision about the fair hearing or within 30 days of the denial of the rehearing request. An appeal to the Circuit Court must be done by filing a petition with the Clerk of Courts in your county. It's best to have legal help, if you decide to appeal a fair hearing decision in Circuit Court.

Legal help

Legal help may be available through Wisconsin Judicare, Inc. or Legal Action of Wisconsin, Inc (LAW). To find the office closest to you, call:

- Judicare at 715-842-1681 or www.judicare.org or
- LAW at 888-278-0633 or www.legalaction.org.