

STATE OF WISCONSIN, _____ COUNTY

IN THE MATTER OF

**Transfer by Affidavit
(\$50,000 and under)**

Decedent _____

Register of deeds recording area

Name and return address

Note: Use black ink only.

_____ parcel identification number

UNDER OATH, I STATE:

1. The decedent, with date of birth _____ and date of death _____, was domiciled in _____ County, State of _____, with a mailing address of _____.
2. I am: an heir, having the following relationship to the decedent: _____.
 the person who was guardian of the decedent at the time of the decedent's death.
 trustee of a revocable trust created by the decedent.
 a person named in the will to act as personal representative.
3. The total gross value of the decedent's property subject to administration in Wisconsin on the date of decedent's death was \$ _____ (not to exceed \$50,000).
4. The decedent:

| | | |
|------------------------------|----------------------------------|---|
| <input type="checkbox"/> did | <input type="checkbox"/> did not | receive Medical Assistance/Medicaid. |
| <input type="checkbox"/> did | <input type="checkbox"/> did not | receive Family Care and/or Partnership benefits (through a Managed Care Organization MCO/CMO). |
| <input type="checkbox"/> did | <input type="checkbox"/> did not | receive benefits from the Community Options Program (COP). |
| <input type="checkbox"/> did | <input type="checkbox"/> did not | receive benefits from the Wisconsin Chronic Disease Program. |
| <input type="checkbox"/> was | <input type="checkbox"/> was not | patient or inmate of a state or county hospital or institution, or responsible for any person owing an obligation to the state or county. |

Explain: _____

 The affiant lacks information to complete this section.
5. If the decedent was ever married, complete the following: (If more than one spouse, **see attached**.)
 Name of spouse: [living or deceased] _____
 Married to decedent Divorced from decedent at time of decedent's death.
 The spouse did did not receive benefits from the Community Options Program (COP).
 The spouse did did not receive benefits from the Wisconsin Chronic Disease Program.
 The affiant lacks information to complete this section.

TRANSFER BY AFFIDAVIT (§867.03, Wisconsin Statutes)

(1c) DEFINITION. In this section, "guardian" has the meaning given in §54.01(10) or 880.01(3), 2003 statutes.

(1g) GENERALLY. Except as provided in sub. (1h) and subject to sub. (1j), when a decedent leaves property subject to administration in this state which does not exceed \$50,000 in value, any heir of the decedent, trustee of a revocable trust created by the decedent, a person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death may collect any money due the decedent, receive the property of the decedent and have any evidence of interest, obligation to or right of the decedent transferred to the affiant if the heir, trustee, person named in the will to act as personal representative, or guardian provides to the person owing the money, having custody of the property, or acting as registrar or transfer agent of the evidences of interest, obligation to, or right, or, if the property is an interest in or lien on real property, provides to the register of deeds preliminary to the recording required under sub. (2m), proof of prior mailed notice under sub. (1m) if applicable and an affidavit in duplicate showing all of the following:

(a) A description of and the value of the property to be transferred.

(b) The total value of the decedent's property subject to administration in this state at the date of decedent's death.

(c) Whether the decedent or the decedent's spouse ever received services provided as a benefit under a long-term care program, as defined in s. 49.496 (1) (bk), medical assistance under subch. IV of ch. 49, long-term community support services funded under s. 46.27 (7), or aid under s. 49.68, 49.683, 49.685, or 49.875.

(1h) EXCEPTION FOR REAL PROPERTY. A person named in the will as personal representative may not receive any real property of the decedent by providing an affidavit under sub. (1g) or have any evidence of interest, obligation to, or right of the decedent in any real property of the decedent transferred to the person named in the will as personal representative by providing an affidavit under sub. (1g).

(1j) TRANSFERS TO PERSON NAMED TO ACT AS PERSONAL REPRESENTATIVE. A person who receives an affidavit under sub. (1g) from a person named in the will to act as personal representative may not transfer any money due the decedent, the property of the decedent, or any evidence of interest, obligation to, or right of the decedent to the affiant until 30 days after the day on which the affidavit is received. If, during the 30-day period, the person who received the affidavit receives an affidavit under sub. (1g) for the same decedent from another person, the person who received the affidavits may not transfer any money due the decedent, the property of the decedent, or any evidence of interest, obligation to, or right of the decedent under this section unless ordered to do so by a court. Subsection (2) does not apply to a transfer if the transferor did not comply with this subsection.

(1m) (a) NOTICE OF AFFIDAVIT. Whenever an heir, trustee, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death intends to transfer a decedent's property by affidavit under sub. (1g) and the decedent or the decedent's spouse ever received services provided as a benefit under a long-term care program, as defined in s. 49.496 (1) (bk), medical assistance under subch. IV of ch. 49, long-term community support services funded under s. 46.27 (7), or aid under s. 49.68, 49.683, 49.685, or 49.785, the heir, trustee, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death shall give notice to the department of health services of his or her intent. The notice shall include the information in the affidavit under sub. (1g) and the heir, trustee, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death shall give the notice by certified mail, return receipt requested.

(b) An heir, trustee, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death who files an affidavit under sub. (1g) that states that the decedent or the decedent's spouse received services provided as a benefit under a long-term care program, as defined in s. 49.496 (1) (bk), medical assistance under subch. IV of ch. 49, long-term community support services funded under s. 46.27 (7), or aid under s. 49.68, 49.683, 49.685, or 49.785 shall attach to the affidavit the proof of mail delivery of the notice required under par. (a) showing the delivery date.

(2) RELEASE OF LIABILITY OF TRANSFEROR. Except as provided in sub. (1j) and subject to sub. (1h), upon the transfer to the heir, trustee, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death furnishing the affidavit with an attached proof of mail delivery if required under sub. (1m) (b), the transferor is released to the same extent as if the transfer had been made to the personal representative of the estate of the decedent.

(2g)(a) OBLIGATION OF AFFIANT. By accepting the decedent's property under this section the heir, trustee, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death assumes a duty to apply the property transferred for the payment of obligations according to priorities established under §859.25 and to distribute any balance to those persons designated in the appropriate governing instrument, as defined in §854.01, of the decedent or if there is no governing instrument, according to the rules of intestate succession under ch. 852, subject to par. (b). An heir, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death may publish a notice to creditors in the same manner and with the same effect as a trustee under s. 701.0508. This paragraph does not prohibit any appropriate person from requesting administration of the decedent's estate under s. 856.07 or ch. 865.

(b) Property transferred under this section to or by an heir, trustee, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death is subject to the right of the department of health services to recover under s. 46.27 (7g), 49.496, 49.682, or 49.849 an amount equal to the medical assistance that is recoverable under s. 49.496 (3) (a), an amount equal to aid under s. 49.68, 49.683, 49.685, or 49.785 that is recoverable under s. 49.682 (2) (a) or (am), or an amount equal to long-term community support services under s. 46.27 that is recoverable under s. 46.27 (7g) (c) 1. and that was paid on behalf of the decedent or the decedent's spouse. Upon request, the heir, trustee, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death shall provide to the department of health services information about any of the decedent's property that the heir, trustee, person named in the will to act as personal representative, or person who was guardian of the decedent at the time of the decedent's death has distributed and information about the persons to whom the property was distributed.

(2m) RECORDING OF AFFIDAVIT. (a) If an affidavit under sub. (1g) describes an interest in or lien on real property a certified copy or duplicate original of the affidavit shall be recorded in the office of the register of deeds in each county in this state in which the real property is located. [Exception: A person named in the will as personal representative may not accept any real property.]

(b) For purposes of a transfer under this section of an interest in or lien on real property, the recording of the affidavit copy or duplicate original constitutes the transfer to the affiant under sub. (1g) of the evidence of the interest in or lien on real property.

(3) APPLICABILITY. This section is additional to §109.03(3) for payment of decedent's wages by an employer directly to the decedent's dependents.

Address for: Department of Health Services
Estate Recovery Program
P. O. Box 309
Madison, WI 53701-0309

NOTE: If you are providing a copy of this affidavit to the Estate Recovery Program or a financial institution, include decedent's social security number on a separate document.