



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CWA/170173

PRELIMINARY RECITALS

Pursuant to a petition filed November 17, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on December 15, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly increased the petitioner's cost share to \$379.35 effective November 1, 2015; and to \$394.35 effective December 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Julie Salmeron
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. The petitioner receives healthcare benefits. She is enrolled in IRIS through a waiver program.
3. On September 21, 2015 the petitioner completed a renewal for these healthcare benefits.

4. The petitioner's monthly income is \$1,432.00. Her rent is \$381.00. Her monthly electric bill is \$54.65. Her heat is included in her rent. In November the agency allowed for \$15 in medical remedial expenses. She did not have any medical remedial expenses effective December 1, 2015. She paid a health insurance premium of \$38.00.
5. On October 20, 2015 the agency sent the petitioner a notice stating that her cost share amount increased to \$379.35 effective November 1, 2015.
6. On November 2, 2015 the agency sent the petitioner a notice stating that her cost share amount increased to \$394.35 effective December 1, 2015.
7. On November 17, 2015 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

The IRIS program was developed pursuant to a Medical Assistance waiver obtained by the State of Wisconsin, pursuant to section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. It is a self-directed personal care program.

The federal government has promulgated 42 C.F.R. §441.450 - .484 to provide general guidance for this program. Those regulations require that the Department's agent must assess the participant's needs and preferences (including health status) as a condition of IRIS participation. *Id.*, §441.466. The Department's agent must also develop a service plan based on the assessed needs. Further, "all of the State's applicable policies and procedures associated with service plan development must be carried out" *Id.*, §441.468.

IRS financial eligibility is the same as for all home and community-based waiver programs. MA Handbook, Appendix 37.1.3. The calculation of a cost share is described in the Handbook at Appendix 28.8.3.1. From income there are several possible deductions including the personal needs allowance that is currently set at \$913, health insurance, medical/remedial expenses, and a special housing amount equal to the amount of housing costs above \$350.

In this case the agency correctly calculated the petitioner's cost share amount. The agency allowed for the personal needs allowance, the petitioner's health insurance, her medical remedial expenses, and the special housing deduction.

The petitioner's first argument is that she did not get the notice that her cost share increased until after the agency implemented the increase. The notices that the agency provided show otherwise. These notices show that the agency informed the petitioner in October that her cost share would increase effective November 1, 2015. Another notice was sent in November stating that her cost share amount would increase effective December 1, 2015.

The petitioner's next argument is that paying the new cost share amount does not give her enough money to live. She does not dispute any of the figures used in the determination, but simply states that it is not enough money. The agency does not get to arbitrarily decide the cost share amount for each waiver recipient. Rather, the agency follows the formula set forth in Medicaid handbook and federal regulations. The agency correctly followed the formula in this case. If the petitioner finds she has additional medical expenses in the future, she may report those expenses to the agency, who will then re-determine her cost share amount.

CONCLUSIONS OF LAW

The agency correctly increased the petitioner's cost share to \$379.35 effective November 1, 2015; and to \$394.35 effective December 1, 2015.

THEREFORE, it is

ORDERED

That the petition is 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, 5005 University Avenue, Suite 201, 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.

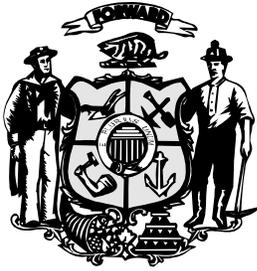
APPEAL TO COURT

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, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **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 Milwaukee,
Wisconsin, this 28th day of January, 2016

\sCorinne Balter
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 January 28, 2016.

Milwaukee Enrollment Services
Bureau of Long-Term Support