



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FCP/171554

PRELIMINARY RECITALS

Pursuant to a petition filed January 21, 2016, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on February 23, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner’s cost share obligation has been correctly calculated.

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: 
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner is a participant in the Family Care Program (FCP). She filed this appeal to contest her Family Care cost share.
3. In December 2015 Petitioner reported that she had discontinued private health insurance which meant that she no longer had a \$227.64 monthly premium. This caused a determination as to whether she

had a cost share. It had been \$0.00 but increased to \$217.20 as of February 1, 2016 (a calculation that it was \$224.90 was corrected prior to the hearing).

4. Petitioner has grossed unearned income of \$1726.20. This consists of a Social Security benefit of \$1356.00 and a private pension of \$370.20 (\$4442.40 per year/12 mo.).
5. In the determination of cost share Petitioner has been credited, both before and after the discontinuance of her private insurance, with a basic needs allowance of \$913.00. Her shelter costs are noted to be \$453.00 per month. She is also credited a health insurance premium of \$43.00 and special remedial expenses of \$100.00. The only change in the calculation is the decrease in the health insurance premium noted at Finding # 3.

DISCUSSION

People eligible for Family Care Medicaid fall into one of the following categories:

28.8.2 Group A

Group A members are waiver functionally eligible and Medicaid eligible via SSI (including SSI-E Supplement and 1619A and B) or a full-benefit Medicaid subprogram (see Section 21.2 Full-Benefit Medicaid). This does not include someone solely eligible for any of the limited benefit Medicaid subprograms (see Section 21.3 Limited Benefit Medicaid).

...

28.8.3 Group B and B Plus

Group B members are defined as those not in Group A, but who have gross income at or below the nursing home institutions categorically needy income limit (see Section 39.4 Elderly, Blind, or Disabled Assets and Income Tables).

Group B Plus members are defined as those not in Group A, who have gross income above the nursing home institutions categorically needy income limit, but whose income does not exceed the cost of the appropriate institutional care by more than the medically needy income limit (see Section 39.4 Elderly, Blind, or Disabled Assets and Income Tables).

For Group B and B Plus, calculate a cost share based on the member's income and allowable deductions. Count only the income of each individual when you calculate that individual's cost share.

Medicaid Eligibility Handbook (MEH), §28.8.2 and .3.

The elderly, blind and disabled (EBD) financial income limit is \$591.67 and the nursing home institutions categorically needy income limit is \$2199, effective January 1, 2015. *MEH, §39.4.1.* As Petitioner's gross income is \$1726.20, it is apparent that she falls into the group B category of Family Care eligibility. Group B FCP members must make a cost share payment. *Id., §28.8.3.*

Cost sharing is the monthly amount a waivers participant has to contribute toward the cost of his/her waiver services. *MEH, § 28.5.1.* Payment of the cost share is a condition of eligibility. *Id.* The allowable deductions from income are the personal maintenance allowance, a family maintenance allowance where the FCP member is the custodial parent, health insurance premiums, medical/remedial expenses and special exempt income. *MEH, §§28.8.3.1; 28.8.3.2 and 28.8.3.3.* Health insurance premium information comes from the benefit recipient and the medical/remedial expenses amount comes from the Family Care case manager. *See MEH, §28.8.3.5.* Relevant here is the personal maintenance allowance and it is calculated as follows:

28.8.3.1 Personal Maintenance Allowance

The personal maintenance allowance is an income deduction used when calculating a cost share for a Group B or B Plus waiver member.

The personal maintenance allowance (Line 6 and Page 2 of the worksheet) is for room, board, and personal expenses. It is the total of the following:

1. Community Waivers Basic Needs Allowance (see Section 39.4.2 Elderly, Blind, or Disabled Deductions and Allowances).
2. Sixty-five dollars and ½ earned income deduction (see Section 15.7.5 \$65 and ½ Earned Income Deduction).
3. Special housing amount. This is an amount of the person's income set aside to help pay housing costs. If the waiver applicant's housing costs are over \$350, add together the following costs:
 - a. Rent.
 - b. Home or renters insurance.
 - c. Mortgage.
 - d. Property tax (including special assessments).
 - e. Utilities (heat, water, sewer, electricity).
 - f. "Room" amount for members in a CBRF, Residential Care Apartment Complex, or an Adult Family/Foster Allowance Home. The case manager determines and provides this amount.

The total, minus \$350, equals the special housing amount. The person can set this amount aside from his or her income.

...
MEH, §28.8.3.1.

The above is rather detailed but provides an explanation of the calculation. Petitioner stated that she discontinued the health insurance because of a tight budget and cannot afford the cost share any more than the health insurance she gave up. Nonetheless, the Division of Hearings and Appeals does not make or change law and policy. It can only decide whether or not the parties in cases over which it has authority have followed and/or correctly applied the law and policy. Here I have reviewed the calculations and find no errors.

Finally, Petitioner should note that if any of the amounts used in the cost share calculation change she should provide the evidence of those changes to the agency.

CONCLUSIONS OF LAW

That the available evidence indicates that Petitioner’s cost share has been correctly calculated.

THEREFORE, it is ORDERED

That this appeal 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.

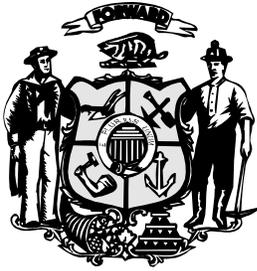
APPEAL TO COURT

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 6th day of April, 2016

\sDavid D. Fleming
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 April 6, 2016.

Milwaukee Enrollment Services
Office of Family Care Expansion
Health Care Access and Accountability