



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FCP/172256

PRELIMINARY RECITALS

Pursuant to a petition filed February 22, 2016, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was held on April 20, 2016, at Milwaukee, Wisconsin.

This matter was originally scheduled for hearing with ALJ Sean Maloney on March 15, 2016. The Petitioner asked to reschedule the hearing, because she had a medical appointment. The hearing was then set for April 12, 2016.

On March 28, 2016, My Choice Family Care asked that this appeal be consolidated with another appeal filed by Petitioner in case FCP/172961, so that both hearings would be conducted on April 12, 2016.

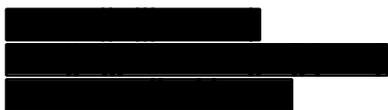
On that same date, the Petitioner contacted the agency asked that the hearing be rescheduled to April 20, 2016, when FCP/172961 was currently scheduled, to give her time to seek representation. Petitioner's request was granted; this appeal was consolidated with FCP/172961 and reassigned to ALJ Mayumi Ishii.

The issue for determination is whether Milwaukee Enrollment Services, correctly implemented the order in case FCP/166885, when it re-determined Petitioner's cost share for July 1, 2015, through March 31, 2016.

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: [REDACTED], HSPC Sr.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:
Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 14, 2015, the Petitioner filed an appeal in case FCP/164668 to contest a cost share determination. On April 1, 2015, the Petitioner's appeal was dismissed, because the agency indicated that it determined the Petitioner's cost share to be zero. (Exhibit 14)
3. Petitioner then completed an annual review, and on June 15, 2015, the agency sent the Petitioner a notice, indicating that she would have a cost share of \$108.00 from July 1, 2015 going forward. (Exhibit 11)
4. At some point, the agency reduced Petitioner's cost share to \$44.00 per month, effective July 1, 2015. (Exhibit 11)
5. On June 24, 2015, the Petitioner filed a second appeal to contest her cost share determination. This was case FCP/166885. (Exhibit 11)
6. On January 12, 2016, an Administrative Law Judge (ALJ) rendered a decision in case FCP/166885, after rescheduling the hearing, and holding the record open to receive additional documentation and briefs from the parties. The ALJ determined that the agency did not correctly calculate the cost share and remanded the matter back to the agency with directions to take into account a deduction for medical/remedial expenses in the amount of \$35.58 per month, effective July 2015 going forward. (Exhibit 11)
7. On January 13, 2016, the agency sent a Certificate of Administrative Action to the Division of Hearings and Appeals, indicating that it reduced the Petitioner's cost share to \$8.42 (\$44.00 - \$35.58 medical remedial expenses), effective February 2016, and that prior to February 2016, Petitioner's cost share was reduced to zero. (Exhibit 4)
8. On January 14, 2016, the agency issued a notice to the Petitioner, indicating that effective February 1, 2016, the Petitioner's cost share would be \$8.42 per month. (Exhibit 5)
9. The Petitioner filed a third appeal that was received by the Division of Hearings and Appeals on February 22, 2016. This is case FCP-172256. (Exhibit 2)
10. On February 28, 2016, the Petitioner completed a FoodShare renewal. (Exhibit 12)
11. On March 3, 2016, the agency sent the Petitioner a notice, indicating that as of April 1, 2016, her cost share would be \$72.42 per month. (Exhibit 6)
12. The Petitioner filed a fourth appeal that was received by the Division of Hearings and Appeals on March 18, 2016. This is case FCP-172961, which will be addressed in a separate decision. (Exhibit 1)

DISCUSSION

It appears the Petitioner filed an appeal on February 22, 2016, to contest the notice of decision issued on January 14, 2016. This notice was based upon the agency's implementation of the order issued in case FCP/166885.

The parties should note that I do not have the jurisdiction to disturb the findings of fact and conclusions of law made in case FCP-172256. I can only review the actions of the agency, subsequent to that decision.

According to the Certificate of Administrative Action, the agency determined that Petitioner's cost share was zero prior to February 2016. Petitioner did not dispute the fact that her cost share should be zero From July 2015 to February 2016.

With regard to February and March 2016, the decision issued in case FCP/166885 held that the agency's only mathematical error was not subtracting out medical remedial expenses in the amount of \$35.58 per month. The ALJ remanded the matter back to the agency for a redetermination of Petitioner's cost share, taking into account the \$35.58 deduction.

According to the Certificate of Administrative Action and the Notice of Decision dated January 14, 2016, the agency followed the ALJ's order in case FCP/166885 and reduced the Petitioner's cost share to \$8.42 (\$44.00 initial cost share determination - \$35.58 medical remedial expenses), effective February 1, 2016. As such, the agency correctly implemented the order issued in case FCP/166885 when it re-determined Petitioner's cost share for February and March 2016.

Petitioner's cost share for April 1, 2016 will be addressed in the decision issued in case FCP/172961.

CONCLUSIONS OF LAW

The agency correctly implemented the order in case FCP/166885, when it re-determined Petitioner's cost share for July 1, 2015 through March 31, 2016.

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 25th day of May,
2016

\sMayumi M. Ishii
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 May 25, 2016.

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