



FH  
[REDACTED]

**STATE OF WISCONSIN  
Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**

Case #: MGE - 174031

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**PRELIMINARY RECITALS**

On May 4, 2016, the above petitioner filed a hearing request under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to challenge a decision by the Waupaca County Department of Social Services regarding Medical Assistance. The hearing was held on June 1, 2016, by telephone.

The issue for determination is whether the agency correctly calculated Petitioner's patient liability amount.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, WI 53703

By: [REDACTED]  
Waupaca County Department of Social Services  
811 Harding Street  
Waupaca, WI 54981-2087

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

### FINDINGS OF FACT

- 1) Petitioner (CARES # [REDACTED]) is a resident of Waupaca County. He resides in an assisted living facility.
- 2) This appeal was filed on behalf of Petitioner seeking to reduce his patient liability. As of June 1, 2016 it was determined by the agency to be \$983.70.
- 3) Petitioner has income in the amount of \$1069.00 from Social Security.
- 4) Petitioner has Medicare Savings Program benefits; specifically, Specified Low-Income Medicare Beneficiary (SLMB) benefits. This pays for his Medicare Part B premium. [*Part A does not typically have a premium and the Part B premium is \$104.90 if a person had the benefit in 2015. See <https://www.medicare.gov/your-medicare-costs/part-b-costs/part-b-costs.html>.*]
- 5) Petitioner was credited with deductions: a personal spending allowance of \$45.00 and a \$40.30 expense for Medicare Part D premiums.
- 6) Petitioner has \$144.60 deducted from his Social Security check for a sum owed the Federal government but it is not a repayment of Social Security benefits. Thus, while Petitioner's gross Social Security benefit is \$1069.00, the amount deposited to his bank account is \$924.40 – less than his patient liability.
- 7) A prior deduction for an old medical bill has been exhausted and a \$201.00 maintenance expenses for Petitioner's home was deleted when it was reported to the agency that utilities had been shut off.

### DISCUSSION

The Medicaid Eligibility Handbook (MEH) provides a good explanation of the patient liability calculation:

#### 27.7.1 Introduction

After an institutionalized person has been determined eligible for Medicaid, his or her cost of care must be calculated. Cost of care is the amount he or she will pay each month to partially offset the cost of his or her Medicaid services. It is called the patient liability amount when applied to a resident of a medical institution and cost share when applied to a community waivers client, PACE or Partnership, or Family Care member. The institutionalized member will be expected to pay his or her patient liability to the institution that he or she is residing in as of the first day of the month.

Calculate the cost of care in the following way:

1. For a Medicaid member in a medical institution who does not have a community spouse, subtract the following from the person's monthly income:
  - a. \$65 and ½ earned income disregard (see Section 15.7.5 \$65 and ½ Earned Income Deduction).

- b. Monthly cost for health insurance (see Section 27.6.4 Health Insurance).
  - c. Support payments (see Section 15.7.2.1 Support Payments).
  - d. Personal needs allowance (see Section 39.4 Elderly, Blind, or Disabled Assets and Income Tables).
  - e. Home maintenance costs, if applicable (see Section 15.7.1 Maintaining Home or Apartment).
  - f. Expenses for establishing and maintaining a court-ordered guardianship or protective placement, including court-ordered attorney and/or guardian fees (see Section 27.6.6 Fees to Guardians or Attorneys).
  - g. Medical or remedial expenses (see Section 27.7.7 Medical or Remedial Expenses and Payments for Noncovered Services).
- ...
- MEH, §27.7.1.*

Also relevant here is the requirement that some income is counted even if unavailable and a garnishment is specifically noted. *MEH, §15.1.5.* A repayment of a Social Security benefits previously overpaid is not counted as income. *MEH, §15.3.21.*

In reviewing this case for this decision I do have one issue that needs to be reviewed by the agency. A home maintenance expense in the amount of \$201.00 had been allowed but was discontinued when Petitioner's family told the agency that utilities had been shut off. The home maintenance expense includes taxes and other expenses besides utilities (see *MEH, §15.7.1*) and it is not clear if there were other expenses. If there were such expenses they could continue so that a maximum of six months of deductions are applied. I do not find any other issues with the agency patient liability determination.

### CONCLUSIONS OF LAW

That there is a possibility that a home maintenance expense in a lesser amount than \$201.00 might be available to be applied as a deduction and will have to be reviewed by the agency but there are no other errors in the agency patient liability calculation.

**THEREFORE, it is**

**ORDERED**

That this appeal is remanded to the agency with instructions to review the home maintenance deduction to be sure there were no other expenses allowable besides utilities. A new notice must be sent to Petitioner explaining the agency findings. This must be done within 10 days of the date of this Decision.

In all other respects 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.

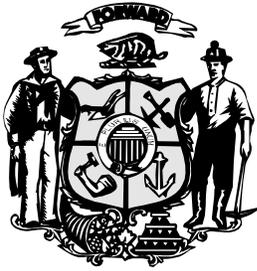
### **APPEAL TO COURT**

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, **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 19th day of July, 2016

\s \_\_\_\_\_  
David 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 July 19, 2016.

Waupaca County Department of Social Services  
Division of Health Care Access and Accountability