



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FCP/144548

PRELIMINARY RECITALS

Pursuant to a petition filed October 12, 2012, under Wis. Admin. Code § DHS 10.55, to review a decision by the Chippewa County Department of Human Services in regard to Medical Assistance, a hearing was held on November 28, 2012, at Chippewa Falls, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner must pay an entire spenddown for a month in which her eligibility began in the middle of the month.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Kelly Goettl

Chippewa County Department of Human Services
711 N. Bridge Street
Chippewa Falls, WI 54729-1877

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Chippewa County.
2. The petitioner was found eligible for medical assistance under a Group C Waiver as of August 17, 2012.

3. The petitioner's gross income is \$2,490.41 per month. She pays \$283.20 per month for her health insurance.
4. The county agency determined that the petitioner must pay \$1,595.54 toward her medical care each month to reach the MA-Waiver Group C limit. She asks that her contribution be prorated for the first month.

DISCUSSION

Medical Assistance-Waiver eligibility depends upon financially and non-financially eligible for medical assistance. *Medicaid Eligibility Handbook*, § 28.1. Medicaid policy divides those potentially eligible for medical assistance under one of the Waivers programs into three groups, A, B, and C. *Medicaid Eligibility Handbook*, § 28.8. Group A includes those who are functionally eligible for the Waivers program and are eligible for SSI or a full-benefit Medicaid subprogram. The full-benefit Medicaid programs are Katie Beckett Medicaid; Home and Community Based Waivers Long Term Care; Institutions Medicaid; BadgerCare Plus and BadgerCare Plus Extensions; Elderly, Blind and Disabled Medicaid, whether categorically or medically needy; BadgerCare Plus Continuously Eligible Newborn; Foster Care Medicaid; Adoption Assistance Medicaid; Medicaid Met Deductibles; Medicaid Purchase Plan; Wisconsin Well Woman Medicaid; and SSI Medicaid. *Medicaid Eligibility Handbook*, §§ 28.8.2 and 21.2. Group B members are not in Group A who have gross income at or below the nursing home institutions categorically needy income limit. *Medicaid Eligibility Handbook*, § 28.8.3. That amount is currently \$2,094. *Medicaid Eligibility Handbook*, § 39.4. Calculate a cost share based on the member's income and allowable deductions. Group C applies to those who meet the medically needy income test for Waiver members but whose income exceeds the Group B limit. *Medicaid Eligibility Handbook*, § 28.8.4. Persons in this category are not eligible until they spend their income down to \$591.67 for a one or two-person household. *Medicaid Eligibility Handbook*, Appendix, § 39.3.

The petitioner concedes that her income exceeds the Group B limit but she objects to having to meet the entire spenddown for August, the first month she became eligible, because she did not become eligible until the 17th of that month. While I understand the petitioner's position, MA -Waiver policy states that the "spenddown obligation is the amount a Group C waivers participant must incur *monthly* in medical/remedial expenses and/or Medicaid card services to lower countable income to the Medically Needy Income limit." [emphasis added] *Medicaid Eligibility Handbook*, § 28.5.2. This policy does not allow the spenddown to be prorated in any month, including the first. Therefore, I must uphold its decision.

CONCLUSIONS OF LAW

The county agency correctly required the petitioner to spend her income down to \$591.67 the first month she was eligible for medical assistance under a Group C MA-Waiver.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 12th day of December, 2012

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 12, 2012.

Chippewa County Department of Human Services
Office of Family Care Expansion