



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FCP/144916

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 31, 2012, under Wis. Admin. Code § DHS 10.55, to review a decision by the Eau Claire County Department of Human Services in regard to Medical Assistance, a hearing was held on December 19, 2012, at Eau Claire, Wisconsin.

The issue for determination is whether the petitioner must pay Community Health Partnership for medical care for the month of October.

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: Sheila Morden

Eau Claire County Department of Human Services  
721 Oxford Avenue  
PO Box 840  
Eau Claire, WI 54702-0840

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.

2. The petitioner signed up for Family Care Services from Community Health Partnership on October 1, 2012.
3. Before paying her cost share, the petitioner determined that the potential services offered by Community Health Partnership did not meet her needs, and she withdrew from the program on October 25, 2012.

### **DISCUSSION**

This matter involves some confusion over the issue. The petitioner inquired into receiving Family Care medical assistance through Community Health Partnership, a program requires her to pay a share of her medical costs. *Medicaid Eligibility Handbook*, § 28.5.1. In the petitioner's case, this means she must pay any income she has beyond an \$878 basic needs allowance plus a \$33 special housing allowance. *Medicaid Eligibility Handbook*, § 28.8.3. and 39.4. Her income is \$1,300.99 a month, and the county agency calculated her share of her medical costs to be \$389.99 per month. The county agency and Community Health Partnership apparently assumed that this is what she is challenging. It is not: she agrees that if she had to pay cost share, \$389.99 is the proper amount. Rather, she challenges being billed for this in October 2012, a month she claims she did not wish to receive any services.

What happened is that she enrolled in the program on October 1, 2012, based upon information provided by Community Health Partnership's pamphlet. Her son testified that although he made a number of phone calls, he was unable to discuss the benefits she would actually receive with anyone until later in the month. When he and the petitioner finally did determine what the actual benefits were, they determined that they did not meet her needs because most of the covered services were already available to her through other support or were unnecessary. Her son testified that the petitioner was not able to disenroll until October 25, 2012, because of the difficulty communicating with Community Health Partnership's representatives. She has not yet paid her cost share and requests that she not be required to. Community Health Partnership did not appear at the hearing (probably because it assumed that the hearing pertained solely to the amount the petitioner must pay toward her care, an issue it had no role in determining), so the petitioner's statements are unchallenged. Furthermore, it is not even clear that Community Health Partnership is still seeking payment from the petitioner.

Medical assistance policy concerning the cost share states: "Payment of the cost share is a condition of eligibility." *Medicaid Eligibility Handbook*, 28.5.1. This means that because she never paid her cost share she was never actually eligible for benefits. Even though she had already signed up for the program, if she had sought services, Community Health Partnership could have declined providing them until she did pay her cost share because she was ineligible for them. As it stands, there is no evidence that she did receive any services from Community Health Partnership. Because she was never eligible for any benefits and never received any, Community Health Partnership cannot collect the \$389.99 cost share from her for October 2012.

### **CONCLUSIONS OF LAW**

Community Health Partnership has no authority to collect a cost share from the petitioner for October 2012 Family Care benefits because she was not eligible for and did not receive any benefits that month.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the county agency and Community Health Partnership with instructions that each certifies within 10 days of the date of this decision that it has ended all efforts to collect any cost share for the petitioner's participation in the Family Care Program during October 2012.

**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 20th day of December, 2012

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\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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 21, 2012.

Eau Claire County Department of Human Services  
Office of Family Care Expansion