



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

WFC/145677

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 26, 2012, under , to review a decision by the Division of Health Care Access And Accountability in regard to Medical Assistance, a phone hearing was held on January 22, 2013, at Sheboygan, Wisconsin.

The issue for determination is whether the Department erred in its denial of funeral and cemetery reimbursement.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Alex Gessler

Division of Health Care Access And Accountability

Madison, WI

**ADMINISTRATIVE LAW JUDGE:**

Michael A. Greene

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Wisconsin. Petitioner is the minor son of deceased [REDACTED] [REDACTED]. The deceased passed in July 2012 after which his body was flown to Virginia for burial.

2. On August 10, 2012, the Department received a reimbursement request for [REDACTED] [REDACTED] from Family Choice Funerals and Cremations for funeral expenses in the amount of 8,069.39 as this exceeded the \$4,500 cap. The request did not request cemetery reimbursement.
3. On September 28, 2012, the Department received another reimbursement request for cemetery expenses in the amount of \$1,200.
4. On October 8, 2012, The Department reimbursed \$1,000 cemetery expenses.
5. Petitioner filed a timely appeal of the denial of the reimbursement of funeral expenses.

### DISCUSSION

Funeral and cemetery expenses may be covered by an individual's county of residence if the individual was certified eligible for MA at the time of death, had no estate to cover the costs funeral and cemetery expenses and no one else paid those expenses on behalf of the individual. However, there is a limit on the amount county agencies are allowed to reimburse for such expenses. The statutory and policy directives under which county agencies must operate are detailed below.

The Wisconsin state statute provides as follows:

**1)** Except as provided in sub. (1m) and subject to s. 49.825, if any recipient specified in sub. (1c) dies and the estate of the deceased recipient is insufficient to pay the funeral, burial, and cemetery expenses of the deceased recipient, the department or county or applicable tribal governing body or organization responsible for burial of the recipient shall pay, *to the person designated by the department or county department under s. 46.215, 46.22, or 46.23 or applicable tribal governing body or organization responsible for the burial of the recipient*, all of the following:

**(a)** The lesser of \$1,000 or the cemetery expenses that are not paid by the estate of the deceased and other persons.

**(b)** The lesser of \$1,500 or the funeral and burial expenses not paid by the estate of the deceased and other persons.

Wis. Stat. 49.785(1) (emphasis added). Furthermore, the Program rules indicate that reimbursement requests are proper *from funeral homes, cemeteries, and crematories*. See *Wisconsin Funeral and Cemetery Aids Program Handbook* at § 2.2.

I cannot find any authority to suggest that petitioner has standing to file this appeal. It appears contrary to the statute and rules of the program. It is unfortunate that petitioner's representative took it upon herself to pay for things such as flying the deceased to Virginia or other items without being ensured of reimbursement. But, I do not find that petitioner or his representative can now ask for reimbursement from the program or appeal a denial of their chosen provider's request for reimbursement.

### CONCLUSIONS OF LAW

The petitioner does not have standing to appeal the Department denial of reimbursement.

**THEREFORE, it is**

**ORDERED**

That this 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 Milwaukee,  
Wisconsin, this 26th day of March, 2013

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\sJohn P. Tedesco  
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 March 26, 2013.

Division of Health Care Access And Accountability  
Wisconsin funeral and Cemetery Aids Program - DHS  
EMCAPO