



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

MGE/145756

PRELIMINARY RECITALS

Pursuant to a petition filed December 05, 2012, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on January 10, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its determination that a deductible is required for petitioner to receive MA benefits.

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: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner receives \$805 per month in social security.
3. Petitioner applied for EBD-Medicaid on November 14, 2012.

4. By notice dated November 19, 2012, the Department informed petitioner that she would be required to meet a deductible in order to received benefits as her income exceeded the income limit.
5. Petitioner filed a request for hearing on December 6, 2012.

DISCUSSION

When a person's income is over the MA limit, an MA deductible, also known as a spend-down, must be met before eligibility begins. WI Stat § 49.47(4)(c)2; WI Admin Code § HFS 103.08(2)(a); Medicaid Eligibility Handbook, §24.2. The “medically needy” income limit for this household of one person is \$591.67. Medicaid Eligibility Handbook, §39.4. A new deductible is then established for a six month period. WI Admin Code § HFS 103.08(2)(c); Medicaid Eligibility Handbook, §24.2. The deductible is calculated as the amount of net income (after the standard \$20 disregard all applicants are allowed and any other permitted deductions) over the income limit each month, times six months. In this case, the petitioner’s income is in excess of the EBD Medically Needy limit for a fiscal test group of one person. The deductible is calculated under the rules of MEH 24.5.1:

24.5.1 Fiscal Test Groups

Determine the Medicaid deductible period ([24.3 Deductible Period](#)) for this fiscal test group.

Find the fiscal test group's total net income for each month in the deductible period.

For the months after the month of application, use prospective net income. (Income that may have been disregarded in the eligibility test which must now be counted, add back in, when determining the deductible period) (See [24.14 Medicaid Deductible, Cost of Care](#)).

Compare the total net income of each month with the group's medically needy income limit. If the group is an:

SSI -related fiscal test group, see [39.4 EBD Assets and Income Table](#) .

If a month's income is less than or equal to the medically needy limit, ignore it.

If a month's income is more than the medically needy limit, find the excess income by subtracting the income limit from the net in-come of that month.

Add together the excess income of the months in the deductible period. The result is the Medicaid deductible.

After reviewing the calculations, I must conclude that the county agency acted correctly under MA program rules and income limits.

The petitioner must submit medical expenses in order to meet the deductible. To be counted toward the deductible, a medical or remedial expense must meet all of the following conditions as found in the Medicaid Eligibility Handbook, §24.7.1:

1. Be an expense for a *member* of the *applicant*/recipient's fiscal test group .
2. Meet the Definition of Medical or Remedial expense as defined in §24.7.1.1 Countable Expenses
3. Meet one of the following four conditions

- a. Still be owed to the medical service provider sometime during the current deductible period.

Expenses which have been "deferred" by the provider are considered a countable cost still owed to the provider and can be used to meet a Medicaid deductible. The deferred charge should be viewed as an incurred expense that remains an unpaid obligation for the member. If only a portion of the deferred charge was used to meet a prior deductible, any remaining balance can be used to meet future deductibles. Many deferred charge situations involve very high costs for the services provided, it is extremely important to document in Case Comments which portion of the deferred charges are used to meet previous deductibles, and any remaining balance that can be used to meet current or future deductibles.
- b. Paid or written off sometime during the current deductible period. Medical bills written off through bankruptcy proceedings are not allowed as a medical expense to meet a deductible.
- c. Paid or written off sometime during the deductible period that immediately precedes and borders on the current deductible period. These bills can be used even if they were paid after the person met the deductible in the prior period.
- d. Paid or written off some time during the three months prior to the date of application. This expense can only be used for the first deductible period. Balances cannot be carried forward to future deductible periods.

The Medicaid Eligibility Handbook can be found at <http://www.emhandbooks.wi.gov/meh-ebd/>. Finally, the petitioner obviously felt that this result is unfair. However, neither the county agency nor the Administrative Law Judge has the authority to make any changes. The petitioner must use the political system to bring about any modifications of the standards that exist at this time.

CONCLUSIONS OF LAW

The petitioner must meet a six-month deductible in order to become eligible for MA.

THEREFORE, it is ORDERED

That the petition for review herein be and the same is hereby 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 11th day of February, 2013

\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 February 11, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability