



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MSC/148627

PRELIMINARY RECITALS

Pursuant to a petition filed April 10, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access And Accountability [“DCHAA”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on May 07, 2013.

The issue for determination is whether petitioner is subject to an MA SeniorCare [“SC”] spend-down.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Dinar Shrestha, SeniorCare
Division of Health Care Access And Accountability
SeniorCare
P.O. Box 6710
Madison, Wisconsin 53716-0710

OTHER PERSON PRESENT:

[REDACTED], [REDACTED]

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner is eligible for MA SeniorCare ["SC"], after a spend-down, for the time period August 1, 2012 to July 31, 2013 and will receive a renewal notice for the time period beginning August 1, 2013.
3. Based on her income petitioner is subject to an SC spend-down in the amount of \$4,631 (her income is over \$31,000 per year).

DISCUSSION

SC is governed by state law and policy. See, Wis. Admin. Code Chapter DHS 109 (July 2011); and, *Medicaid Eligibility Handbook* ["MEH"] 33. A *spend-down* is the amount of money an SC participant must spend on prescription drugs before the participant becomes eligible for SC. Wis. Admin. Code DHS § 109.03(16) (July 2011). The amount of spend-down is the difference between the Fiscal Test Group ["FTG"] annual income and 240% of the Federal Poverty Level ["FPL"] corresponding the size of the FTG. Wis. Admin. Code DHS § 109.013(4)(b) (July 2011). MEH 33.11.5. In this case, based on her income, petitioner is subject to an SC spend-down in the amount of \$4,631.

Petitioner does not deny that she has an SC spend-down and does not dispute the amount of the spend-down. However, she testified that she has many expenses (her teeth, eyeglasses, grocery, gas, car repair) and that by the end of the month her money is gone. However, as detailed above, an SC spend-down is required by law for those with an income over 240-% FPL.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is subject to an SC spend-down.

NOW, 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 10th day of July, 2013

\sSean P. Maloney
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 10, 2013.

Division of Health Care Access And Accountability
Enrollment Services
Senior Care