



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/149087

PRELIMINARY RECITALS

Pursuant to a petition filed April 30, 2013, under Wis. Admin. Code § HA 3.03, to review a decision by the St. Croix County Department of Human Services in regard to Medical Assistance, a hearing was held on August 23, 2013, at New Richmond, Wisconsin. Hearings scheduled for June 20 and July 22, 2013, were rescheduled at the petitioner's request.

The issue for determination is whether the county agency correctly determined the petitioner's contribution toward her medical assistance.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jen Feyereisen

St. Croix County Department of Human Services
1445 N. Fourth Street
New Richmond, WI 54017-1063

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of St. Croix County.
2. The petitioner receives \$1,498 in unearned income each month. She has no earned income.
3. The petitioner's housing costs are \$726 per month.

4. On May 6, 2013, the county agency notified the petitioner that as of May 1, 2013, she must contribute \$267 toward the cost of her medical care. It later amended this to \$232 per month.

DISCUSSION

The petitioner receives medical assistance through IRIS, one of the MA-Waivers program. Those receiving Waiver benefits must contribute all income exceeding their personal maintenance allowance to their medical care. *Medicaid Eligibility Handbook*, 28.5.1. That allowance, which covers room and board and personal expenses is the total of the following:

1. Community Waivers Basic Needs Allowance [\$878. *Medicaid Eligibility Handbook*, § 39.4.2.]
2. \$65 and ½ earned income deduction
3. Special housing amount. This is an amount of the person's income set aside to help pay housing costs. If the waiver applicant's housing costs are over \$350, add together the following costs:
 - a. Rent.
 - b. Home or renters insurance.
 - c. Mortgage.
 - d. Property tax (including special assessments).
 - e. Utilities (heat, water, sewer, electricity).
 - f. "Room" amount for members in a Community Based Residential Facility (CBRF), Residential Care Apartment Complex (RCAC) or an *Adult* Family/Foster Allowance.) Home (AFH). The case manager determines and provides this amount.

Medicaid Eligibility Handbook, § 28.8.3.1.

“The total of the items listed in subsection 3 minus \$350 equals the special housing amount.” *Id.*

The petitioner receives \$1,498 per month from SSDI. Her housing costs are \$726 per month. The county agency deducted the \$878 basic needs allowance and another \$326 for her shelter costs. It arrived at the shelter deduction by subtracting \$350 from her \$726 shelter costs. It did not give her a deduction for earned income because she is not working. After subtracting the basic needs allowance and the shelter deduction from her income, it determined that she must contribute \$232 per month toward the cost of her medical care. She does not challenge these calculations but contends she also needs money for a high-protein diet, vitamins, car insurance, and gas to see her children. While I do not doubt her testimony, neither the county agency nor I can grant her deductions that are not allowed by law. The agency has correctly determined what deductions she is entitled to and has properly calculated her share of her medical costs. Therefore, I must uphold its decision.

CONCLUSIONS OF LAW

The county agency correctly determined the petitioner's share of her medical costs.

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 13th day of September, 2013

\sMichael D. O'Brien
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 September 13, 2013.

St. Croix County Department of Human Services
Bureau of Long-Term Support