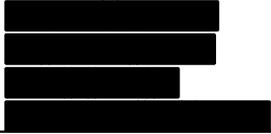




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FCP/149106

PRELIMINARY RECITALS

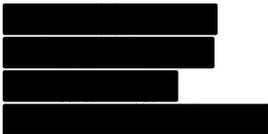
Pursuant to a petition filed April 30, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on June 20, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner’s cost share for Family Care (FC).

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Desiree Pollard Badji
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. Petitioner’s representative completed a renewal for Family Care (FC) benefits on February 17, 2013.

3. Petitioner has a monthly pension of \$1,225, Social Security Retirement of \$223/month and VA benefits of \$917/month after a \$694 disregard. Petitioner's total gross monthly income is \$2,365. Petitioner pays health insurance premiums of \$186.74/month. She has medical remedial expenses of \$2,799. She has monthly medical expenses of \$11. She pays a Medicare premium of \$104.90/month. She has rent expense of \$550/month.
4. Prior to March 1, 2013, Petitioner's gross monthly income was \$1,798.
5. On March 1, 2013, the agency issued a Notice of Proof Needed to the Petitioner requesting information regarding her VA benefits. The due date for the information was March 11, 2013.
6. On May 3, 2013, the agency issued a Notice of Decision to the Petitioner informing her that her monthly cost share is \$1,567.91 effective March 1, 2013.
7. On May 2, 2013, an appeal was filed on the Petitioner's behalf with the Division of Hearings and Appeals.

DISCUSSION

The Family Care program, which is supervised by the Department of Health and Family Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10.

People eligible for Family Care Medicaid fall into one of the following categories:

Group A eligibility

1. People 18 and over who meet full benefit EBD Medicaid financial and non-financial requirements and who are also functionally eligible for FC at either the nursing home or non-nursing home level of care.
2. People 18 and over who meet BC+ Standard Plan, Well Woman Medicaid, Medicaid through Adoption Assistance or Foster Care financial and non-financial requirements and who are functionally eligible for FC at either the nursing home or non-nursing home level of care.

Group B eligibility

People 18 and over who meet full benefit EBD Medicaid non-financial and financial requirements except for income, who are functionally eligible for FC at the nursing home level of care, and whose income is at or below the special income limit (See the Community Waivers Special Income Limit in 39.4.1)

Group C eligibility

People 18 and over who meet full benefit EBD Medicaid non-financial and financial requirements except for income, who are functionally eligible for FC at the nursing home level of care, and whose income is above the special income limit (see the Community Waivers Special Income Limit in 39.4.1), but whose allowable monthly expenses are sufficient to reduce their income to the medically needy limit (See EBD Medically Needy Limits in 39.4.1.)

Medicaid Eligibility Handbook (MEH), §29.3.1.

The elderly, blind and disabled (EBD) financial income limit is \$591.67 and the Community Waivers Special Income Limit was \$2094.00 through the end of 2012 and went up to \$2130 effective January 1, 2013. MEH, §39.4.1 and Operations Memo12-63; issued November 28, 2012. As Petitioner's gross income is \$2,365.00, it is apparent that she falls into the group C category of Family Care eligibility. Group C FC members must make a cost share payment. Id., §28.8.3.

A person in Group C status must expend income that exceeds the \$591.67 "medically needy income limit of \$591.67, minus the \$20 unearned income disregard and health insurance premium expense. See the Medicaid Eligibility Handbook, §39.4.1 – "EBD Medically Needy Limits." The Petitioner has \$2,799 in medical remedial expenses. The agency did subtract the \$20 disregard, the Petitioner's health insurance premium, and the \$591.67 income limit from the petitioner's income here. The agency submitted its budget screens along with supporting documentation to show how that this is how it calculated a cost share of \$1,567.91/month. The agency also noted that it is subsidizing some of the Petitioner's room and board costs in this case.

The Petitioner's representative, her daughter, testified that she does not dispute the agency's calculations and that the calculations of cost share appear to be based on accurate information. She testified that the agency had previously used inaccurate information, specifically, she had to make some calls to the agency to get the correct VA benefit information submitted. She further stated that the agency had used incorrect insurance costs and rent expenses. However, she conceded that the agency's calculations to arrive at the \$1,567.91 cost share were based on accurate income and expense information.

The Petitioner's daughter also testified that the Petitioner has other expenses. With the monthly cost share and the other expenses, she has little money left. She cited an \$18/month phone bill, a Lifeline expense and an additional \$5/month in medications not covered by insurance.

The Petitioner's daughter asks for a reduction in the Petitioner's cost share. This is equitable relief which I am not, as an administrative law judge, authorized to grant. I have reviewed the evidence and determined that the agency properly calculated the cost share at \$1,567.91/month.

CONCLUSIONS OF LAW

The agency properly calculated the Petitioner's cost share at \$1,567.91/month.

THEREFORE, it is ORDERED

That the petition be, and hereby 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 12th day of July, 2013

\sDebra Bursinger
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 12, 2013.

Milwaukee Enrollment Services
Office of Family Care Expansion