



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CWA/149612

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 24, 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 July 23, 2013, at New Richmond, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner's request that, when determining his contribution toward his medical costs, he be allowed to deduct a second mortgage used to pay his homeowner's insurance and property taxes after he had already been allowed a separate deduction for those expenses.

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. On April 22, 2013, the county agency set the petitioner's share of his medical costs at \$163.75 per month as of May 1, 2013.
3. The petitioner has two mortgages on his house. The primary mortgage requires him to pay \$568.62 per month. The second mortgage is a home equity line of credit he uses to pay his property tax and insurance and other household expenses. He seeks to have the portion of the line of credit used to pay his property tax and insurance deducted when considering his share of his medical costs.
4. The petitioner's homeowner's insurance is \$104.88 and his property tax \$165.69 per month. The county agency allowed a deduction for these costs. It did not allow him to also deduct the portion of the home equity line of credit used to pay these expenses.

### 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 sole issue is whether the county agency correctly determined the petitioner's housing allowance when establishing his contribution toward his medical costs. The agency allowed a monthly deduction of \$568.62 for his first mortgage, \$104.88 for his homeowner's insurance, \$165.69 for his property tax, and the standard utility allowance. He also has a home equity line of credit that constitutes a lien against his house. He uses this to pay various monthly expenses, including his homeowner's insurance and property tax. He seeks a deduction for the payment made for the portion of the line of credit attributable to those household expenses in addition to the deduction the agency has already allowed for those expenses. The agency denied his request because doing so would double the amount he can deduct for these expenses.

The petitioner contends that if his request is denied, then the agency will have to "examine every single payment that has an escrow account." He then adds:

Here’s why! Normally during the Annual Review the county/state gives full credit for mortgage payments as “shelter expenses”. They not discern how these mortgage payments may breakdown.

He goes on to point out that he does not have money set aside in an escrow account but rather uses the separate line of credit to pay these bills, making that account similar to an escrow account. He then argues:

The only difference is that escrow accounts are prepaid by the borrower and my HELOC [home equity line of credit] payments are made after the fact.

Which by the way, my HELOC is a mortgage loan, a shelter expense by your definition, where escrow accounts are not mortgage loans and therefore not a shelter expense by your definition!!

He then concludes:

To reiterate, if you allow mortgage payments that include escrow accounts which are NOT shelter expenses to be credited as such, then you must allow payments into my 2<sup>nd</sup> mortgage which IS a shelter expense.

[All quotations are copied verbatim.]

The petitioner’s indignation is inversely proportional to the righteousness of his cause. His argument overlooks the obvious: if someone has money set aside in an escrow account, he is not going to make a separate payment out of his regular bank account for those the items already covered by the escrow account. This means that not only is that person paying for these expenses just once, he is also only getting the deduction for these expenses just once. Like that person, the petitioner is only paying for these expenses once, but, unlike him, he seeks credit for doing so twice. I am aware that subsection 3.c. of the *Medicaid Eligibility Handbook*, § 28.8.3.1., refers to a “mortgage” and that the petitioner’s home line of credit can be considered a mortgage. But the beginning of that portion of the policy states that the “special housing amount...is an amount of the person's income set aside to help pay housing costs.” Only after making this general statement does the policy go on to list the specific items that make up housing costs. Read as a whole, the intent of the policy is that the specific items listed as making up this deduction should equal a recipient’s housing costs but not exceed them, which they would do if the petitioner’s argument were adopted. The agency has correctly complied with this policy and limited him to a deduction equal to the amount he set aside to pay his housing costs. Because he does not challenge any other part of the agency’s calculation, I find that it correctly determined his share of his medical costs.

**CONCLUSIONS OF LAW**

The county agency correctly denied the petitioner request that he be allowed to use repayments of his line of credit as a housing cost deduction when determining his contribution toward his medical care.

**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 6th day of September, 2013

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\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 6, 2013.

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