



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/150122

PRELIMINARY RECITALS

Pursuant to a petition filed June 18, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the St. Croix County Department of Human Services in regard to Medical Assistance, a hearing was held on July 22, 2013, at New Richmond, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner’s patient liability for the time she was in the hospital and nursing home.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[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 was in the hospital from April 30, 2013, through May 7, 2013, when she entered the nursing home. She remained in the nursing home until she returned home on June 29, 2013.

3. The petitioner receives \$906 in unearned income per month.
4. The petitioner's home maintenance costs are \$326.59 per month.

DISCUSSION

Medical assistance rules require nursing home residents to “apply their available income toward the cost of their care.” Wis. Admin. Code § DHS 103.07(1)(d). Those rules allow some exemptions, including a \$45 personal needs allowance and the cost of maintaining a home for a limited period if certain conditions are met. Wis. Admin. Code § DHS 103.07(1)(d)1 and 6. The petitioner was in a hospital or nursing home from April 30, 2013, through June 29, 2013. Her income is \$906 per month. After deducting her \$45 personal needs allowance and another \$326.59 for home maintenance items that included her homeowner's insurance, property taxes, trash, water, telephone, gas and electric, the county agency determined that she must contribute \$534.41 to her care during June and July 2013. She requested that she be allowed to deduct \$719.86 from her income, an amount that she contends is the minimum amount she needs to live on each month.

I understand that the petitioner cannot support herself on \$371.59 per month. Nevertheless, I can only allow the deductions found in Wis. Admin. Code § DHS 103.07(1)(d). That provision does not allow a deduction for things like automobile and beauty shop expenses, both of which she requested. The agency allowed her all of the deductions in § 103.07(1)(d) that she verified. Therefore, I must uphold its decision.

CONCLUSIONS OF LAW

The county agency correctly determined the deductions the petitioner was allowed and correctly determined her contribution toward her care while she was institutionalized.

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 5th 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 5, 2013.

St. Croix County Department of Human Services
Division of Health Care Access and Accountability