



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

MGE/151255

PRELIMINARY RECITALS

Pursuant to a petition filed August 10, 2013, under Wis. Stat., §49.45(5), to review a decision by the Juneau County Dept. of Human Services in regard to Medical Assistance (MA), a hearing was held on October 15, 2013, by telephone.

The issue for determination is whether petitioner's monthly cost of care can be lowered due to high personal expenses.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: William Blank
Juneau County Dept. of Human Services
220 E. LaCrosse Street
Mauston, WI 53948

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Juneau County.
2. Petitioner has resided in a nursing home since January, 2013, and has been eligible for nursing home MA since April, 2013.

3. Petitioner's monthly income is \$979 social security. Petitioner's monthly cost of care was determined by taking her monthly income and subtracting the \$45 personal needs allowance, leaving \$934 as her monthly obligation.
4. Petitioner has a disabled adult daughter who lives 50 miles from petitioner. Petitioner tries to visit her daughter twice per week.

DISCUSSION

Nursing home MA recipients must apply all available income toward their cost of care. Cost of care is determined by taking gross income, allowing certain specified deductions, and applying the remainder to the monthly nursing home expense.

The deductions for cost of care purposes include a standard \$45 personal needs allowance, the cost of health insurance, court-ordered support, the expense of obtaining and maintaining a court ordered guardianship, the cost of medical services that are not covered by MA, and a home maintenance allowance. Wis. Admin. Code, §DHS 103.07(1)(d); MA Handbook, App. 27.7.1. Those are the only things that can be deducted in determining monthly cost of care; the code provision does not include an exception for unusual circumstances. While petitioner's desire to visit her daughter is reasonable, the Division of Hearings and Appeals does not have authority to change the monthly cost of care that is set out by state law.

CONCLUSIONS OF LAW

There is no authority to decrease a nursing home resident's monthly cost of care because the calculation is established by state law that does not allow for exceptions for unusual circumstances.

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 18th day of October, 2013

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on October 18, 2013.

Juneau County Department of Human Services
Division of Health Care Access and Accountability