



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

In the Matter of

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

DECISION

FCP/151325

PRELIMINARY RECITALS

Pursuant to a petition filed August 12, 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 December 04, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether there is any issue for determination by the Division of hearings and Appeals.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Bryan Williams
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner is a member of the Family Care Program.

3. On July 26, 2013, the Department sent a notice to petitioner informing her that her cost share for the FCP would increase to \$683.
4. Petitioner filed an appeal.
5. Following that, the petitioner provided documentation of medical remedial expenses and the cost share was reduced to \$626.49

DISCUSSION

At the time of hearing, it became apparent that the increase in cost share from last year was due to a claimed expense in last year's budget for private health insurance. There is no longer any such expense claimed. Thus, such deduction is no longer taken from petitioner's income. Petitioner's POA representative did not dispute this and stated that she understood the reason for the increase.

But, the representative appeared to have filed the appeal as a means of requesting a reduction in the cost share based on hardship. The representative explained that the cost share is 38 percent of petitioner's income and is too high to pay.

A reduction in cost share is allowed under the Administrative Code:

(4) PAYMENT OF COST SHARE REQUIRED.

(a) Except as provided in par. (b), a person who is required to contribute to the cost of his or her care but who fails to make the required contributions is ineligible for the family care benefit.

(b) If the department or its designee determines that the person or his or her family would incur an undue financial hardship as a result of making the payment, the department may waive or reduce the requirement. Any reduction or waiver of cost share shall be subject to review at least every 12 months. A reduction or waiver under this paragraph shall meet all of the following conditions:

- 1. The hardship is documented by financial information beyond that normally collected for eligibility and cost-sharing determination purposes and is based on total financial resources and total obligations.*
- 2. Sufficient relief cannot be provided through an extended or deferred payment plan.*
- 3. The person is notified in writing of approval or denial within 30 days of providing necessary information to the department or its designee.*

Wis. Admin. Code, §DHS 10.34(3)(4)(a),(b). See also, FCP contract, III-E. The code says that the department "may" waive/reduce the cost share requirement—it is not required to do so. At this point, the petitioner has not requested such a reduction from the Department. She must do so by request to the Department who may or may not grant this reduction. Such decision is at the discretion of the Department pursuant to the Code. I do not have the authority to order such a reduction.

CONCLUSIONS OF LAW

There is no issue for determination by the Division of Hearings and Appeals.

THEREFORE, it is

ORDERED

That this 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, Room 651, 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 December, 2013

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 5, 2013.

Milwaukee Enrollment Services
Office of Family Care Expansion