



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

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In the Matter of

[REDACTED]  
c/o [REDACTED]

DECISION

[REDACTED]  
[REDACTED]

FCP/154231

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 12, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by Community Care Inc. in regard to Medical Assistance/Family Care, a telephone hearing was held on February 19, 2014.

The issue for determination is whether petitioner is entitled to reimbursement for all overdraft charges relating to an electronic funds transfer in favor of the Family Care agency.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

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

By: Lynn Zafrin  
Community Care Inc.  
1555 S. Layton Ave.  
Milwaukee, WI 53215

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who resides in an adult residential care apartment complex.
2. The petitioner receives benefits through the Family Care Program (FCP).

3. The petitioner has requested reimbursement by Community Care of overdraft fees related to electronic fund transfers from his bank account.
4. Community Care and the petitioner's bank addressed the overdrafts and reimbursed and/or forgave a certain number, if not all, of the overdraft fees charged.

### **DISCUSSION**

The Family Care program, which is supervised by the Department of Health Services (DHS), 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. See also the Medicaid Eligibility Handbook, Chapter 29.

At hearing, it was difficult to discern the actual issue being pursued by petitioner. Petitioner's daughter framed the issue as a request for reimbursement of overdraft fees, though the record contains no evidence that any fees remain outstanding. Testimony at hearing indicated that the petitioner's bank had forgiven many of the overdraft fees, and the respondent's representative stated that it, too, had covered some of the overdraft fees despite having no obligation to do so. Petitioner's daughter stated that the bank was possibly the driving factor in seeking to have the respondent cover more, if not all, of the overdraft fees. This was not independently verified, and the petitioner did not establish any responsibility for reimbursement of the overdraft fees on the part of the respondent.

Petitioner's representative did not provide any evidence or any relevant Family Care Program law or policy to refute that the overdraft reimbursement request was improperly denied. As such, I must affirm the respondent's denial of petitioner's request.

### **CONCLUSIONS OF LAW**

The Family Care Program agency correctly denied the petitioner's request for overdraft reimbursement.

**THEREFORE, it is**

**ORDERED**

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, 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 28th day of February, 2014

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\sPeter McCombs  
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 February 28, 2014.

Milwaukee Enrollment Services  
Office of Family Care Expansion