



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FCP/154531

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 03, 2014, 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 February 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its calculation of a \$379 costs share for petitioner’s enrollment in the Family Care Program (FCP).

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, Room 651  
Madison, Wisconsin 53703

By: Brian 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 had previously been eligible for the FCP without a cost share until December 31, 2013 as she had been receiving SSI.

3. In January, petitioner began receiving additional unearned income in the form of spousal social security at \$1,280.
4. The agency conducted a periodic eligibility review in January and determined a cost share of 558.77 in error. The agency manually corrected this prior to the hearing.
5. Petitioner appealed.
6. On 1/31/14, the agency sent notice to petitioner informing her that she would be eligible for the FCP with a cost share of \$379.

### **DISCUSSION**

The Family Care Program is a subprogram of Wisconsin's Medical Assistance (MA) program and is intended to allow families to arrange for long-term community-based health care and support services for older or impaired family members without resort to institutionalization, *Wis. Stats.* §46.286; *Wis. Admin. Code* § DHS 10.11. An individual who meets the functional and financial requirements for Family Care, *Wis. Stats.* §46.286(1) participates in Family care by enrolling with a Care Management Organization (CMO), *Wis. Admin. Code* § DHS 10.41 which, in turn, works with the participant and his/her family to develop an individualized plan of care. The CMO implements the plan by contracting with one or more service providers.

Individuals who wish to participate in Family Care but who do not meet the financial requirements for coverage under the MA program may receive Family Care coverage upon payment of a cost-share, *Wis. Stats.* §46.286(2); *Wis. Admin. Code* § DHS 10.34(3). A person who is required to contribute appropriate payments to the cost of his care but who fails to make the required contributions is ineligible for Family Care. *Wis. Stat.* § 46.286(2)(c); *Wis. Admin. Code* §§ DHS 10.32(1)(f) & 10.34(4)(a).

In this case, the FCP initially calculated the wrong cost share due to incorrect data in the computer system relating to unearned income. The agency corrected that cost share to align with current income to petitioner. The program has determined that petitioner's cost-share is \$379. Petitioner does not argue that the amount has been calculated incorrectly or that the agency used incorrect information to reach this cost-share amount. Petitioner does not argue that she is eligible for a deduction that has not been included in the calculation. Petitioner argued at the hearing only that she spends a lot of money on food because she is diabetic. She explained that she eats a lot of fresh fruits and vegetables and a lot of high-quality meat. While the cost share calculation took into account a basic needs allowance of \$901, and certain medically necessary items such as prescription drugs can be deducted as medical remedial expenses, the calculation of cost share does not allow for deduction of higher-than-average food costs. I cannot find that the Department has erred in the calculation of the cost share.

### **CONCLUSIONS OF LAW**

The Department has not erred in its calculation of the cost share of \$379.

**THEREFORE, it is**

**ORDERED**

That this matter is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 21st day of March, 2014

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\sJohn P. Tedesco  
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 March 21, 2014.

Milwaukee Enrollment Services  
Office of Family Care Expansion