



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/155315

PRELIMINARY RECITALS

Pursuant to a petition filed February 07, 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 April 30, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency erred in its increase to the 2014 Family Care Program (FCP) cost share to 318.61 as set forth in the 12/20/13 notice to petitioner.

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: Chris Sobczak
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 FCP. Her monthly SS income is \$1,354.
3. Petitioner's 2013 cost share was \$247.

4. On December 20, 2014, petitioner was sent notice informing her that petitioner's 2014 cost share would be \$318.61.
5. In December 2013, the agency budgeted petitioner's medical remedial expense deduction at \$196. In the previous two years, the deduction was approximately double or triple that amount.
6. Petitioner appealed.

DISCUSSION

The Family Care program, which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized under Wisconsin Statutes, § 46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10. See also, *Medicaid Eligibility Handbook* at §29.1 *et seq.*, available at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>.

In this case, the petitioner has been found eligible for FC at the comprehensive level. An eligible person's income is reviewed to determine if the recipient has enough income to be responsible for payment of a monthly "cost share." See, <http://www.dhs.wisconsin.gov/mltc/2012/2012Contract.htm> (the FCP standard contract), and the *MEH*, § 29.3. A recipient may request a hearing on the determination of the cost share amount. Wis. Stat. §46.287(2)(a)1b.

A person who receives both a Medical Assistance card and Family Care, and is not on "regular MA" because of excess income, is classified as being in Group A, Group B, or Group C. Group A is for person who receives SSI or certain other benefits that are not relevant here. The petitioner does not fit within Group A. Group B status is available to a person who has gross income below the Community Waivers MA income limit of \$2,094. *MEH*, § 39.4.1. A Group B recipient may have health insurance premiums, certain medical/remedial expenses and a Personal Maintenance Allowance (possibly including housing expenses) subtracted from her income before a cost share is computed. 42 C.F.R. §435.726; Wis. Admin. Code §DHS 103.07(1)(d). The petitioner's gross income places her in Group B.

Petitioner filed this request for hearing because her cost share rose by approximately \$75 for 2014. She did not understand why. The case manager filled out the request for hearing not because she believes there was an error, but because petitioner asked her to. Neither petitioner nor her case manager could suggest any error that was made by Ms. Sobczak in calculating the cost share. I could find no error with the calculation of the cost share. The biggest factor appears to have been the medical remedial deduction from 2013 to 2014. At hearing, petitioner's case worker explained that she was new to the case within the last month or two. She was not familiar with the significant decrease in the medical remedial deduction. It appears that the drastic decrease in this deduction would explain the increase to the cost share for 2014. The case manager explained that petitioner does not save all her receipts and it is difficult to find adequate documentation. Ms. Sobczak explained that it is the case manager's agency that needs to be satisfied as to the expenses and the receipts do not need to go to her for the cost share determination. At hearing, petitioner's case worker agreed that she could assist petitioner with gathering appropriate documentation or other support for accurate medical remedial expenses. It would behoove petitioner to submit all expenses and have the cost share recalculated. But, at this point, and with the figures available to it, the agency has calculated the cost share correctly

CONCLUSIONS OF LAW

The agency did not err in its calculation of the cost share.

THEREFORE, it is

ORDERED

That this appeal 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 5th day of May, 2014

\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 May 5, 2014.

Milwaukee Enrollment Services
Office of Family Care Expansion