



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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CWA/155985

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed March 08, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Barron County Department of Human Services in regard to Medical Assistance, a hearing was held on April 15, 2014, at Barron, Wisconsin. A hearing scheduled for April 17, 2014, was rescheduled at the petitioner's request.

The issue for determination is whether the county agency correctly determined the petitioner's share of her medical costs.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: No Appearance

Barron County Department of Human Services  
Courthouse Room 338  
330 E Lasalle Ave  
Barron, WI 54812

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Barron County.

2. The county agency notified the petitioner that her share of her medical expenses would be \$482 per month as of January 1, 2014.
3. The petitioner received \$1,638 per month in unearned income when her cost share was set.
4. The petitioner has \$131 in medical remedial expenses each month.
5. The petitioner's housing costs are \$531 per month.

### DISCUSSION

The petitioner receives medical assistance through one of the MA Waivers program. Those receiving these benefits must contribute all income exceeding allowable deductions, including the personal maintenance allowance the medical remedial deduction to their medical care. *Medicaid Eligibility Handbook*, 28.5.1. The personal maintenance allowance, which covers room board, and personal expenses, is the total of the following:

1. Community Waivers Basic Needs Allowance [\$890. *Medicaid Eligibility Handbook*, § 39.4.2.]
2. \$65 and ½ earned income deduction
3. Special housing amount. This is an amount of the person's income set aside to help pay housing costs. If the waiver applicant's housing costs are over \$350, add together the following costs:
  - a. Rent.
  - b. Home or renters insurance.
  - c. Mortgage.
  - d. Property tax (including special assessments).
  - e. Utilities (heat, water, sewer, electricity).
  - f. "Room" amount for members in a Community Based Residential Facility (CBRF), Residential Care Apartment Complex (RCAC) or an *Adult* Family/Foster Allowance.) Home (AFH). The case manager determines and provides this amount.

*Medicaid Eligibility Handbook*, § 28.8.3.1.

The total of the items listed in subsection 3 minus \$350 equals the special housing amount. *Id.*

Remedial medical expenses are described as follows in *Medicaid Eligibility Handbook*, § 15.7.3:

Medical expenses are anticipated incurred expenses for services or goods that have been prescribed or provided by a professional medical practitioner (licensed in Wisconsin or another state). The expense is for diagnosis, cure, treatment, or prevention of disease or for treatment affecting any part of the body. These are expenses that are the responsibility of the member, and cannot be reimbursable by any other source, such as Medicaid, private insurance, or employer.

The petitioner receives medical assistance waiver benefits through the Wisconsin IRIS program. The county agency initially notified her that her share of her medical costs would increase to \$598 but later lowered this to \$482, amount that still substantially exceeds what she had been paying. Her share of her medical costs increased primarily because IRIS provides supportive home care, which she used to pay and then deduct as a remedial medical expense. The agency calculated her share of her medical costs by subtracting \$181 as a special housing allowance, \$131 as medical remedial costs, and \$890 basic needs allowance from her \$1,638 monthly income. She has no earned income, so she is not entitled to the earned income deductions. Her total allowable housing costs are \$531 per month. The petitioner does not dispute the agency's calculations. Rather, she points out that she has other expenses and that paying \$482 a month for her medical care is "unsustainable." She asks for an exception to the cost share rules.

I have no doubt that paying over \$600 per month for a medical cost share and medical remedial expenses creates a hardship for someone making \$1,638 per month. Nevertheless, the medical assistance program do not provide me with any authority to modify or ignore rules because of their consequences in a particular case. Rather, I must follow those rules as they are written. In the petitioner's matter, this requires me to uphold the agency's decision to require her to pay \$482 toward her medical care each month.

**CONCLUSIONS OF LAW**

The county agency correctly determined the petitioner's share of her medical costs.

**THEREFORE, it is ORDERED**

The petitioner's 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 30th day of April, 2014

---

\sMichael D. O'Brien  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 30, 2014.

Barron County Department of Human Services  
Bureau of Long-Term Support