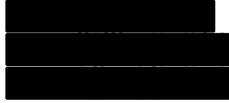




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FCP/157792

PRELIMINARY RECITALS

Pursuant to a petition filed May 19, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Kenosha County Human Service Department (the agency) in regard to Medical Assistance, a hearing was held on June 26, 2014, at Kenosha, Wisconsin.

The issue for determination is whether Kenosha County Human Services correctly calculated the Petitioner’s cost share.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

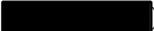
Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Coordinator
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Kenosha County.
2. The Petitioner completed a renewal on March 31, 2014. (Exhibit 2; Testimony of Ms. Mayer)
3. The Petitioner’s sole source of income is from Social Security Disability, in the amount of \$1597.00 per month. In March, the Petitioner reported a utility bill in the amount of \$78.00,

Medical Remedial Expenses in the amount of \$11.00 per month and rent in the amount of \$760.00 per month. (Exhibit 2; Exhibit 4; testimony of Petitioner)

4. On April 21, 2014, the agency sent the Petitioner a notice indicating that he was eligible for the Family Care Program and that effective May 1, 2014, his cost share would be \$197.00 per month. (Exhibit 6)
5. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 19, 2014. (Exhibit 1)
6. In June 2014, the Petitioner reported an increase in rent to \$770 per month, an increase in his utility bill to \$90 per month and a \$4.00 insurance premium. (Exhibit 7; testimony of Petitioner)
7. On June 23, 2014, the agency sent the Petitioner a notice indicating that as of July 1, 2014, his cost share would be going down to \$171.00 per month. (Exhibit 8)
8. Petitioner lives alone. (Testimony of Petitioner)

DISCUSSION

People eligible for Family Care Medicaid fall into one of the following categories:

Group A eligibility

1. People 18 and over who meet full benefit EBD Medicaid financial and non-financial requirements and who are also functionally eligible for FC at either the nursing home or non-nursing home level of care.
2. People 18 and over who meet BC+ Standard Plan, Well Woman Medicaid, Medicaid through Adoption Assistance or Foster Care financial and non-financial requirements and who are functionally eligible for FC at either the nursing home or non-nursing home level of care.

Group B eligibility

People 18 and over who meet full benefit EBD Medicaid non-financial and financial requirements except for income, who are functionally eligible for FC at the nursing home level of care, and whose income is at or below the special income limit (See the Community Waivers Special Income Limit in 39.4.1)

Group C eligibility

People 18 and over who meet full benefit EBD Medicaid non-financial and financial requirements except for income, who are functionally eligible for FC at the nursing home level of care, and whose income is above the special income limit (see the Community Waivers Special Income Limit in 39.4.1), but whose allowable monthly expenses are sufficient to reduce their income to the medically needy limit (See EBD Medically Needy Limits in 39.4.1.)

Medicaid Eligibility Handbook (MEH), §29.3.1.

The elderly, blind and disabled (EBD) financial income limit is \$591.67 and the Community Waivers Special Income Limit is \$2,163.00. *MEH, §39.4.1.* As Petitioner’s gross income is \$1597.00, it is apparent that he falls into the group B category of Family Care eligibility.

Cost sharing is the monthly amount a waivers participant has to contribute toward the cost of his/her waiver services. *MEH, § 28.5.1.* Payment of the cost share is a condition of eligibility. *Id.*

The cost share calculation for a group B participant is as follows:

- Total Income
- Personal Maintenance Allowance
- Family Maintenance Allowance
- Special Exempt Income
- Health Insurance Premium
- Out of Pocket Medical Remedial Expenses

Cost Share Amount

See MEH, §28.8.1; Worksheet F-20919

The Petitioner is single and lives alone, and as such, does not receive the Family Maintenance Allowance. In March 2014, he did not report any special exempt income or any health insurance premiums, but he did report \$11.00 per month in Medical Remedial Expenses. Thus, the main deduction from income for Petitioner came from the personal maintenance allowance.

The personal maintenance allowance is calculated as follows:

28.8.3.1 Personal Maintenance Allowance

The Personal Maintenance Allowance is an income deduction used primarily when calculating a cost share for a Group B waiver member...

The personal maintenance allowance (Line 6 and Page 2 of the worksheet) is for room, board, and personal expenses. It is the total of:

1. Community Waivers Basic Needs Allowance (See [39.4.2 EBD Deductions and Allowances](#))
2. \$65 and ½ earned income deduction (See [15.7.5 \\$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.

The total, minus \$350, equals the special housing amount. The person can set this amount aside from his/her income.

...

MEH, §28.8.3.1.

The Community Waivers Basic Needs Allowance is currently \$901. *MEH, §39.4.1.* The Petitioner has no earned income and so the \$65 and ½ earned income deduction does not apply to him. The Petitioner's Special Housing amount works out to be as follows for March 2014:

\$760.00 Rent
 +\$78.00 utility
 -\$350.00

\$488 Special Housing Amount

Thus, Petitioner's Personal Maintenance Allowance Worked out to be:

\$901 Basic Needs Allowance
 +\$488 Special Housing Amount

\$1389 Personal Maintenance Needs Allowance

Thus, Petitioner's Cost Share Calculation effective May 1, 2014 worked out to be:

\$1597.00 Income from Social Security
 -\$1389.00 Personal Maintenance Needs Allowance
 - \$11.00 Medical Remedial Expenses

\$197 cost share

In June 2014, the Petitioner reported some changes in his circumstances that would affect his July cost share amount; specifically an increase in rent to \$770 per month, an increase in utilities to \$90.00 per month and renter's insurance in the amount of \$4.00 per month.

As such, Petitioner's Special Housing Amount changed:

\$770.00 Rent
 +\$90.00 Utility Bill
 + \$4.00 Renter's Insurance
 -\$350.00

\$514.00 Special Housing Amount

This, in turn, changed the Petitioner Personal Maintenance Needs Allowance:

\$901 Basic Needs Allowance
 +\$514 Special Housing Amount

\$1415 Personal Maintenance Needs Allowance

This, in turn, changed Petitioner's cost share for July 2014:

\$1597.00 Income from Social Security
 -\$1415.00 Personal Maintenance Needs Allowance
 - \$11.00 Medical Remedial Expenses

\$171 cost share

At the hearing, the Petitioner did not dispute the agency's calculations of his cost share amounts, but argued that they were simply more than he can afford. The Petitioner stated that he has been responsible with what little money he has and has cut back as much as he can on expenses, but is still falling short.

There is no reason to doubt the Petitioner. However, the cost share calculations are based strictly upon the formulas discussed above and administrative law judges do not have the authority to deviate from the law as it is written. As such, the agency's determination of Petitioner's cost share must be upheld.

CONCLUSIONS OF LAW

The agency correctly determined the Petitioner's cost share amounts.

THEREFORE, it is

ORDERED

The petition 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 Milwaukee,
Wisconsin, this 30th day of July, 2014

\sMayumi M. Ishii
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 July 30, 2014.

Kenosha County Human Service Department
Office of Family Care Expansion