



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FCP/158512

**PRELIMINARY RECITALS**

Pursuant to a petition filed June 23, 2014, under Wis. Admin. Code, §DHS 10.55, to review a decision by the Western Region for Economic Assistance in regard to a Family Care Program (FCP) cost share, a hearing was held on August 13, 2014, by telephone.

The issue for determination is whether petitioner should have a cost share for April and May, 2014.

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Robert Uebele  
Western Region for Economic Assistance  
P.O. Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Monroe County.
2. Petitioner was enrolled in FCP on April 1, 2014. The agency determined that he had a cost share of \$735.46 for April and \$685.46 for May. Effective June 1, 2014, his cost share was eliminated when evidence was shown and verified that he paid a \$97 daily charge for living at the Veterans facility.
3. On petitioner's application he noted an \$8,000 per month expense, but the agency did not investigate it further or include it in the cost share calculation.

## 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 in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10.

Wis. Stat., §46.286(2)(a), provides that an FCP recipient must pay a cost share based upon income and certain expenses. Wis. Adm. Code, §DHS 10.34(3)(b) provides that cost of care is determined by taking the institutionalized person's income, then making several deductions. Deductions include one for out-of-pocket medical/remedial expenses. MA Handbook, App. 15.7.3.

I note first that following the hearing Mr. Uebele informed me about the information concerning petitioner's application. The reason that petitioner's cost share was not eliminated until June 1 was because the agency did not obtain the information concerning petitioner's daily charge until June, and under program rules changes are made effective the month of the report. However, the information about the application changes the case; petitioner reported the charges on his application but not specifically. The worker that processed the application should have inquired about the claimed expense.

I conclude, therefore, that the residential expense should be backdated to April 1, 2014. The agency should adjust petitioner's cost share for April and May accordingly.

## CONCLUSIONS OF LAW

Petitioner's charge to reside in a Veterans facility was reported on his FCP application and should have been included in his cost share determination when his eligibility began.

**THEREFORE, it is**

**ORDERED**

That the matter be remanded to the agency with instructions to re-determine and adjust petitioner's FCP cost shares for April and May, 2014 by including his \$97 per day facility charge as an expense against his income. The agency shall do so within 10 days of this decision.

## **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 15th day of August, 2014

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\sBrian ■ Schneider  
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 August 15, 2014.

La Crosse County Department of Human Services  
Office of Family Care Expansion