



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION

FCP/159885

PRELIMINARY RECITALS

Pursuant to a petition filed August 15, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Chippewa County Department of Human Services in regard to Medical Assistance, a hearing was held on October 21, 2014, at Chippewa Falls, Wisconsin.

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

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

Respondent:

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

By: Cindy Carlson

Chippewa County Department of Human Services
711 N. Bridge Street
Chippewa Falls, WI 54729-1877

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of a nursing home in Chippewa County. His wife lives in the community.
2. The petitioner's social security income increased from \$762 to \$867 per month in August 2014.

3. The petitioner's spouse earns \$3,405.32 per month.
4. The county agency determined that the petitioner must contribute \$822 toward his medical care each month.

DISCUSSION

Nursing home residents who receive medical assistance must "apply their available income toward the cost of their care." Wis. Admin. Code § DHS 103.07(1)(d). Available income does not include a \$45 monthly personal needs allowance. Wis. Admin. Code, § DHS 103.07(1)(d); Wis. Stat. § 49.45(7)(a). But medical assistance law contains provisions that grant an allowance to the spouse of an institutionalized person so that she does not fall into poverty. *See* Wis. Stat. § 49.455(4). The allowance, called the minimum monthly maintenance needs allowance, currently is the lesser of \$2,898 or \$2,585 plus excess shelter costs. *Medical Eligibility Handbook*, § 18.6.2. Excess shelter costs are shelter costs above \$775.50. *Id.*

When the agency most recently determined the petitioner's share of his medical costs, his wife earned \$3,405.32 per month. Because this exceeds \$2,899, she is not entitled to any allocation from his income, regardless of her shelter costs. His income had been \$762 from social security, but it increased \$867 when he began receiving Medicare Premium Assistance and no longer had to pay his Medicare premium. Because he now has \$867 in countable income, and his wife is not entitled to any of his income, he must contribute this amount minus \$45, or \$822, toward his medical care. This is the amount that the agency correctly determined.

I am aware that the petitioner's spouse's income fluctuates. As I pointed out at the hearing, when her income falls, she should report this decline to the agency so that it can reduce her husband's medical contribution.

CONCLUSIONS OF LAW

The county agency correctly determined the petitioner's contribution toward his medical care.

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 4th day of December, 2014

\sMichael D. O'Brien
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 December 4, 2014.

Chippewa County Department of Human Services
Office of Family Care Expansion