



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/160613

PRELIMINARY RECITALS

Pursuant to a petition filed September 16, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Family Care (FC) benefits, a hearing was held on October 22, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the petitioner's cost share was correctly computed, effective August 1, 2014.

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: Desiree Pollard-Badji, IM Spec. - Advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Prior to August 2014, the petitioner participated in the Family Care (FC) program with a \$91 cost share liability. Her case was reviewed on July 29, 2014. Thereafter, the Department issued

written notice to the petitioner advising that her cost share would be \$153 monthly from September 2014, forward.

3. The petitioner filed a hearing request that was received by the Division of Hearings and Appeals on September 16, 2014.
4. The agency reviewed and revised its action. On September 19, 2014, the Department issued another written notice to the petitioner, advising that her cost share would be decreased to \$68, from August 1, 2014 forward.
5. The petitioner receives monthly unearned gross income of \$1,053. She has \$610 in monthly housing costs, consisting of a \$500 special assessment, \$25 in electric bills, and an \$85 telephone expense. These expenses were correctly considered in arriving at the \$68 cost share.
6. At hearing, the petitioner produced receipts for items that she wishes to have deducted from income as medical-remedial expenses. This information has not previously been presented to her case manager.

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 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>.

Here, the petitioner has been found eligible for FC. An eligible person's income is reviewed to determine if she has enough income to be responsible for payment of a monthly "cost share." See, *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 \$2,163 in 2014. *MEH*, § 39.4.1. A Group B recipient may have health insurance premiums, certain medical/remedial expenses and a \$901 Basic Needs 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 undisputed gross income of \$1,051 places her in Group B. (Group C is for a person with more than \$2,163 in monthly income).

By the date of hearing, the agency had correctly arrived at a cost share of \$68, based on the information provided. The petitioner was asked if there was any portion of the calculation that she still disagreed with. She stated that she wished to have over-the-counter medical products subtracted from income. Because these expenses had not previously been brought to her case manager's attention, this Judge suggested that she present her expense list to her case manager. If the agency does not subsequently adjust her cost share downward to her satisfaction, the petitioner may file a new hearing request. The petitioner requested that, if she needs to file a new hearing request, she be assigned to this Judge. Although I cannot guarantee that such a request will be honored, I have no objection to her request if it should arise.

CONCLUSIONS OF LAW

1. The agency correctly computed the petitioner's FC cost share for August through October 2014, based on the information presented by the petitioner.

THEREFORE, it is

ORDERED

That the petition 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 23rd day of October, 2014

\sNancy J. Gagnon
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 October 23, 2014.

Milwaukee Enrollment Services
Office of Family Care Expansion