



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

MGE/161304

PRELIMINARY RECITALS

Pursuant to a petition filed October 15, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Barron County Department of Human Services in regard to Medical Assistance, a hearing was held on November 13, 2014, at Barron, 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:

Redact

Respondent:

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

By: Redact

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 # Redact) is an institutionalized resident of Barron County.
2. The petitioner receives \$2,309 per month in unearned income. He has no earned income.

3. The county agency set the petitioner's share of his medical care at \$2,264 per month.

### DISCUSSION

The petitioner is nursing home resident who receives medical assistance. That program's rules require nursing home residents to "apply their available income toward the cost of their care." Wis. Admin. Code § DHS 103.07(1)(d). The county agency requires the petitioner to contribute all but \$45 of his \$2,309 monthly income toward his medical care. He disagrees with this decision because it does not allow him to deduct his income tax from his contribution.

Section DHS 103.07(1)(d) defines "available income" as "any remaining income after the following reductions are made:

- "1. A personal needs allowance, as provided under s. 49.45 (7) (a), Stats., [\$45] and
- "2. If employed, the first \$65 and one-half of the remainder of gross earnings;
- "3. The cost of health insurance;
- "4. Necessary medical or remedial care recognized under state law but not covered by MA;
- "5. The actual amount paid by the institutionalized person for support of a person for whom the institutionalized person is legally responsible but not to exceed the appropriate AFDC assistance standard unless the institutionalized person is paying court-ordered support in an amount greater than the AFDC assistance standard in s. 49.19 (11) (a) 1., Stats.; and
- "6. The monthly cost of maintaining a home when the conditions of s. DHS 103.06 (1) (b) 3. are met, but not to exceed the SSI payment level for one person living in that person's own household."

Nothing in this regulation allows a person to deduct income taxes from his medical contribution; he does not claim he is entitled to any other deduction. I am aware that this creates a hardship for him, but I must follow the rules as they are written. In addition, it appears that he has not taken some steps that would help his finances. Persons with little income can receive a refund of most, if not all, of their income tax payments. The petitioner apparently has not filed in income tax return in many years; if he would file a return, he could likely have more money to contribute toward his required medical contribution. In addition, he has not verified his income with the county agency for over two year, so even if it could potentially help to him, he has not provided it with the opportunity to do so.

### CONCLUSIONS OF LAW

The county agency correctly determined the petitioner's share of his 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 29th day of December, 2014

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\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 29, 2014.

Barron County Department of Human Services  
Division of Health Care Access and Accountability