



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/161644

PRELIMINARY RECITALS

Pursuant to a petition filed October 28, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Portage County Department of Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on January 7, 2015. At petitioner's request a Hearing scheduled for December 11, 2014 was rescheduled.

The issue for determination is whether petitioner owes a past due cost share amount of \$78.65 for the MA Family Care Program ["FCP"].

There appeared at that time via telephone 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: Tammy Porter, ESS

Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 57 years old) is a resident of Portage County, Wisconsin.

2. The County contends that petitioner owes a past due FCP cost share in the amount of \$78.65 and that he has been carrying this cost share from month to month for a long time (for at least the last year).
3. Petitioner disputes the alleged past due amount and requested a Hearing.

DISCUSSION

A person who is eligible for FCP must pay a monthly amount toward their cost of care. This is known as the FCP *cost share*. See, Wis. Stat. § 46.286(2)(a) (2011-12); Wis. Admin. Code § DHS 10.34(2) (November 2013); *Medicaid Eligibility Handbook* ["MEH"] 29.3.1. A person who is required to pay an FCP cost share but fails to make the required payments is ineligible for FCP. Wis. Stat. § 46.286(2)(c) (2011-12); Wis. Admin. Code § DHS 10.34(4)(a) (November 2013)¹.

Petitioner does not dispute his current cost share. He disputes the alleged past due amount of \$78.65. The County was specifically asked about the origin of the alleged past due amount and where it came from. The County was not able to provide any information in this regard. Therefore, the alleged past due amount of \$78.65 cannot be sustained and must be reversed.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner does not owe a past due cost share amount of \$78.65 for FCP.

NOW, THEREFORE, it is

ORDERED

That this matter be REMANDED to the County, that the County amend its records to show that petitioner does not owe a past due cost share amount of \$78.65 for FCP, that the County immediately cease all efforts to collect that amount from petitioner, and that, within 10 days of the date of this *Decision*, the County send a letter to petitioner stating that it has done all of those things.

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.

¹ If the Wisconsin Department of Health and Services ["DHS"] determines that the person or his or her family would incur an undue financial hardship as a result of making the FCP cost share payment DHS may waive or reduce the amount. Wis. Admin. Code § DHS 10.34(4)(b) (November 2013). A waiver may be requested by writing a letter to: **Bureau Director; Office of Family Care; Wisconsin Department of Health Services; P.O. Box 7850; Madison, Wisconsin 53707-7850.**

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 2nd day of February, 2015

\sSean P. Maloney
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 February 2, 2015.

Portage County Department of Human Services
Office of Family Care Expansion
MemberServices@communitycarecw.org