



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted]
Redact
[Redacted]

DECISION

FCP/163361

PRELIMINARY RECITALS

Pursuant to a petition filed January 21, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services [MiLES] in regard to Medical Assistance [MA], a Hearing was held via telephone on February 24, 2015.

The issue for determination is whether it was correct to end petitioner's eligibility for the MA Family Care Program [FCP] due to failure to pay her cost share.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

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

BY: [Redacted], Income Maintenance [IM] Advanced
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

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 Milwaukee County, Wisconsin.

2. Petitioner's father lives with petitioner and pays rent to petitioner.
3. In calculating the amount of petitioner's FCP cost share MiLES counts the rent paid by petitioner's father as income for petitioner.
4. Petitioner has not paid her FCP cost share since October 2014.
5. MiLES ended petitioner's eligibility for FCP due to petitioner's failure to pay her cost share.

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) (2013-14); 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) (2013-14); Wis. Admin. Code § DHS 10.34(4)(a) (November 2013); MEH 29.5.2.4.¹.

Petitioner has not paid her FCP cost share since October 2014. Petitioner does not dispute this. Therefore, it was correct to end petitioner's eligibility for FCP due to failure to pay the cost share.

Petitioner questions whether the rent paid by her father should count as income for her. However, such rental payments are counted as income for FCP cost share purposes. § DHS 10.34(1)(e) (November 2013); MEH 15.5.3.

Petitioner testified to various loans payments she had to make. When calculating the FCP cost share certain disregards and deductions against income are allowed. See, Wis. Stat. § 46.286(2)(a) (2013-14); Wis. Admin. Code § DHS 10.34(2) (November 2013). However, loan payments are not an allowed disregard or deduction. MEH 15.1.5.3, 15.1.6, 15.3 & 15.4.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to end petitioner's eligibility for FCP due to failure to pay her cost share.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

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.**

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 26th day of March, 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 March 26, 2015.

Milwaukee Enrollment Services
Office of Family Care Expansion