



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MGE/163976

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 14, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Wisconsin Department of Human Services (Department) in regard to Medical Assistance (MA), a hearing was held on March 31, 2015, by telephone. At the petitioner's request, the hearing record was held open for 10 days for his submission of full rent payment verification; nothing was received.

The issue for determination is whether the Department's agent has correctly determined the petitioner's patient liability amount effective January 1, 2015.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

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

By: [REDACTED], ES Supr.

La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Monroe County. He is certified for FC as a household of one person.
2. The petitioner, age 58, has an ongoing FC case. He entered a nursing home on November 28, 2014, which caused his case to be re-evaluated. On December 11, 2014, the Department issued written notice to the petitioner advising that his patient liability amount would be \$831 monthly, effective January 1, 2015.
3. The petitioner has gross monthly income consisting of \$876 in Social Security Disability. An out of pocket health insurance cost was not identified by the petitioner. After subtraction of a \$45 statutory personal needs allowance, the agency determined that the petitioner had \$831 available to pay toward his care.
4. On January 6, 2015, the petitioner supplied the agency with a doctor's statement declaring that the petitioner was expected to return home within six months. The petitioner reported that he was responsible for half (\$235.50) of his rent. The agency then subtracted his rent cost from his income, to calculate a new patient liability amount of \$595.50. The agency made the new patient liability amount effective back to January 1, 2015. *See*, notice dated January 7, 2015.
5. The rental cost of the petitioner's residence is \$470 monthly. The petitioner has a room-mate, who pays half of the cost.

### 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 comprehensively 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>.

In this case, the petitioner has been found eligible for FC at the comprehensive level. An eligible person's income is reviewed to determine if the recipient 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.

Because the petitioner went into a nursing home, the agency used the Department's formula for calculating his patient liability. *MEH*, § 27.7.1. In addition to the \$45 statutory personal needs deduction, the only other income deduction that the petitioner qualified for was the cost of maintaining his home or apartment. There is a housing expense deduction for six months if the patient submits a doctor's statement declaring that the person will return home within six months. That occurred here. The types of expenses that can be deducted in this category include the patient's payment of a mortgage, rent, property taxes, home or renters insurance, and utilities. *MEH*, § 15.7.1. There is no dispute that the monthly rental cost of the petitioner's residence is \$470.

Despite having told the agency initially that his room-mate pays half of the rent, and that he pays the other half, at hearing the petitioner asserted that he pays all of the rent. Why he would allow his room-mate to pay none of the rent is unclear in this record. The petitioner testified that he has excused his room-mate from paying rent because she has many other old bills (*e.g.*, loans) that she needs to pay. The hearing record was held open for 10 days to allow the petitioner to submit documentation to establish that he has been paying 100% of his rent, rather than half. It was suggested that canceled checks to the landlord

showing a full \$470 payment each month would be helpful documentation. No such documentation was received within the 10 days, or prior to issuance of this Decision. Therefore, based on my record, I found that the petitioner is paying half of his rent. The patient liability amount of \$595.50 was therefore correctly calculated. *See*, Exhibit 10, calculation.

**CONCLUSIONS OF LAW**

1. The petitioner’s patient liability was correctly determined to be \$595.50.

**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 6th day of May, 2015

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\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 May 6, 2015.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability