



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

FCP/165061

PRELIMINARY RECITALS

Pursuant to a petition filed March 30, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Portage County Department of Human Services in regard to a Family Care (a Medical Assistance-related program) cost share, a hearing was held on May 12, 2015, at Stevens Point, Wisconsin.

The issue for determination is whether the petitioner's Family Care cost share for April 2015 was correctly computed.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact

Respondent:

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

By: [Redacted], ES Worker
Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

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

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Portage County.
2. Prior to April 2015, the petitioner participated in the Family Care (FC) program with a \$14.00 cost share liability. Her case was reviewed in March 2015. On March 10, 2015, the Department

issued written notice to the petitioner advising that her cost share would be \$383 monthly from April 1, 2015, forward. The petitioner appealed, and aid was continued at the prior level.

3. The petitioner receives monthly gross unearned income of \$1,304. For April, the agency subtracted a \$913 Basic Needs Allowance, and noted that she pays no health insurance premium, and had an \$8.00 documented out-of-pocket medical/remedial expense.
4. The \$8.00 medical/remedial expense ended with April 2015, so the petitioner’s FC cost share increased to \$391 for May 2015.

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 §38.2 *et seq.*, available at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>.

In this case, the petitioner has been found eligible for FC. 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.” Wis. Admin. Code § DHS 10.34(3)(b). 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 \$2,199 in 2015. *MEH*, § 39.4.1. A Group B recipient may have health insurance premiums, certain medical/remedial expenses and a \$913 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 \$1,304.00 places her in Group B. (Group C is for a person with more than \$2,199 in monthly income).

Prior to April 2015, the agency was using a \$927 monthly gross income figure for the petitioner. However, her Social Security income increased to \$1,304, which changed the calculation. The petitioner’s \$294 monthly rent cost is under the excess shelter cost threshold of \$350. The agency made the correct calculation for April, which looks like this:

Gross income	\$1304.00
- Basic Needs Allowance	- 913.00
- Medical/Remedial	<u>- 8.00</u>
Cost Share	383.00

CONCLUSIONS OF LAW

1. The agency correctly computed the petitioner’s April 2015 FC cost share.

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 25th day of June, 2015

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 25, 2015.

Portage County Department of Human Services
Office of Family Care Expansion