



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/165661

PRELIMINARY RECITALS

Pursuant to a petition filed April 24, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, specifically the Family Care Program (FCP), a telephonic hearing was held on July 23, 2015.

The issue for determination is whether the agency correctly determined petitioner's cost share effective May 1, 2015.

There appeared at that time and place 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: Julie Salmeron, IM Adv.
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County and has been enrolled in the FCP with a monthly cost share due since September 2014.
2. Petitioner moved from her residence in April 2015 to another residence. This caused her shelter and utility deductions to reduce, as the rent was lower and she did not have a water utility to pay.

3. On April 17, 2015 the economic agency issued a notice of decision to petitioner stating that her cost share was increasing. See Exhibit 7. This increase was due to the lower rent and lower utility costs she was paying with the new residence.

DISCUSSION

Wisconsin Medicaid is a state/federal program that provides health coverage for Wisconsin residents who are elderly, blind, or disabled (EBD) or receive Wisconsin Well Woman Medicaid. Medicaid is also known as Medical Assistance, MA, and Title 19. The Family Care Program is a subprogram of Medicaid which is supervised by the Department of Health Services and is designed to provide appropriate long-term care services for elderly or disabled adults in Wisconsin. See Wis. Stat. §46.2805(4) and Wis. Admin. Code §DHS 10.13(21). The Family Care Program procedures and eligibility requirements are found in the Wisconsin Administrative Code, Chapter DHS 10, available online at http://docs.legis.wisconsin.gov/code/admin_code/dhs/001/10/1.

One of the requirements for FCP eligibility is payment of a cost share. See Wis. Admin. Code §DHS 10.34(4). The agency provided the budget screens to show how it determined her most recent cost share amounts. See Exhibit 6. There is nothing in the evidence to show that the agency was not calculating the cost share according to policy. See *Medicaid Eligibility Handbook*, §28.8, available online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. That policy is applied to any FCP member that must pay a cost share.

The petitioner asserts that her cost share is unrealistic and too high to pay. She identified no errors in the calculation of the cost share except to state that it is unfair because it does not reflect all of her expenses. I have reviewed the budget and can find no errors. The agency has shown that the cost share was correctly calculated for May 1, 2015.

I add, assuming petitioner finds this decision unfair, that it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

CONCLUSIONS OF LAW

The agency correctly determined petitioner's cost share effective May 1, 2015.

THEREFORE, it is

ORDERED

The petition for review herein 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 Milwaukee,
Wisconsin, this 7th day of August, 2015

\sKelly Cochrane
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 August 7, 2015.

Milwaukee Enrollment Services
Office of Family Care Expansion
JP.Maschke@communitycareinc.org