



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/166106

PRELIMINARY RECITALS

Pursuant to a petition filed May 20, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on June 17, 2015, at Milwaukee, Wisconsin.

NOTE: The record was held open until July 1, 2015, at Petitioner's request, to obtain documentation from the Petitioner concerning her Chapter 13 Bankruptcy and verification that the debt she is paying is for medical expenses. No documentation was received by the designated deadline, because her family care provider sent the documents to Milwaukee Enrollment Services, but not to the Division of Hearings and Appeals. On July 10, 2015, the family care agency faxed Petitioner's documents to the Division of Hearings and Appeals. The packet includes a WE Energies bill dated June 10, 2015, a Six Month Status Report dated February 3, 2013, and a debt summary from Petitioner's bankruptcy attorney. The packet has been marked as Exhibit 13 and entered into the record.

There is no longer any issue for determination concerning the Petitioner's cost share for April and May 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: Chris Sobczek, HSPC Sr.
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On March 16, 2015, the agency sent the Petitioner a notice indicating that effective April 1, 2015, she was enrolled in a Waivers program with a cost share of \$403.89. (Exhibit 9)
3. On March 19, 2015, the agency sent the Petitioner a notice indicating that as of May 1, 2015, she would be enrolled in a Waiver program with a cost share of \$403.00. (Exhibit 9a)
4. Petitioner’s “current” energy bills was \$165.75 for April 2015 and \$125.57 for May 2015. (Exhibit 13)
5. As of February 2015, Petitioner had outstanding medical debt of \$87.23 that is subject to Chapter 13 debt repayment terms. (Exhibit 13)
6. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on May 20, 2015. (Exhibit 1)
7. On or before June 17, 2015, the agency removed / rescinded the Petitioner’s cost share for April 2015 and for May 2015. (Exhibits 11 and 12)

DISCUSSION

The Petitioner filed an appeal on May 20, 2015, to contest the agency’s imposition of a cost share. The agency has since removed the cost share for April and May 2015, so Petitioner does not need to pay anything for her cost of care for April 2015 and May 2015. Consequently, there is no longer any issue for determination concerning the Petitioner’s cost share for April 2015 and May 2015.

At the hearing, the Petitioner indicated that she was informed that the cost share for June was also removed, but Petitioner did not provide that notice of decision and the agency was unable to confirm this. So, it appeared the issue was not yet ripe for determination. If the agency imposes a cost share for June 2015 going forward, the Petitioner is free to file a new appeal, if she has not already done so.

The Petitioner also argued that her payments towards her Chapter 13 Bankruptcy debt should be considered when determining any future cost share.

The cost share calculation follows the formula below:

Total Income
-Personal Maintenance Allowance
-Family Maintenance Allowance
-Special Exempt Income
-Health Insurance Premium
-Out of Pocket Medical Remedial Expenses
Cost Share Amount

Worksheet F-20919 (07/2015)

The formula does not include a deduction for payments made toward Chapter 13 bankruptcy debt. The only way payments on a Chapter 13 bankruptcy might be considered, is if the debt resulted from outstanding medical bills.

Exhibit 13 shows that Petitioner's total outstanding debt in her Chapter 13 bankruptcy is \$15,550.06. However, of that amount, only \$87.23 is for outstanding medical expenses. This was not listed on the Updated Medical and Remedial Expenses Checklist in Exhibit 6. If the agency imposes a cost share for June 2015 going forward, it should consider the \$87.23 debt.

CONCLUSIONS OF LAW

There is no longer any issue for determination concerning the Petitioner's cost share for April 2015 and May 2015, because the agency rescinded it.

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.

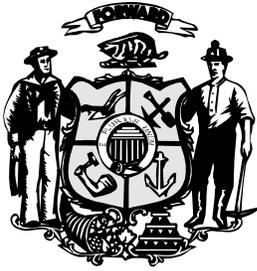
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 13th day of July, 2015.

\sMayumi M. Ishii
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 July 13, 2015.

Milwaukee Enrollment Services
Office of Family Care Expansion