



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

DECISION

MGE/168167

**PRELIMINARY RECITALS**

Pursuant to a petition filed August 21, 2015, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to Medical Assistance, a hearing was held on September 29, 2015, at West Bend, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner’s monthly cost of care.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

Respondent:

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

By: Ken Benedum

Washington County Department of Social Services  
333 E. Washington Street  
Suite 3100  
West Bend, WI 53095

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [Redacted]) is a resident of Washington County.

2. In or about May – December, 2014, the Petitioner was residing at a skilled nursing facility and was enrolled in the Family Care program with a monthly patient liability of \$257.
3. In or about December, 2014 – April, 2015, the Petitioner resided in an assisted living facility with a monthly patient liability of \$357.
4. In April, 2015, the Petitioner moved back to the skilled nursing facility. In July, 2015, Petitioner applied for Institutional Medicaid. His application was approved effective June 1, 2015 with a monthly cost of care of \$407.30. This was based on Petitioner's monthly Social Security income of \$1,242, monthly shelter expenses of \$1,244.25 (rent of \$913, insurance of \$6.25, utility allowance of \$321) and the Petitioner's wife's monthly earned income of \$2,190.80.
5. On August 21, 2015, an appeal was filed on behalf of the Petitioner with the Division of Hearings and Appeals.

### DISCUSSION

After an institutionalized person is determined eligible for MA, a county agency must calculate the amount of income the institutionalized person must contribute to defray the cost of care incurred by MA on his or her behalf on a monthly basis. This is referred to as the person's "patient liability." The calculation begins with gross income, and only a few items may be subtracted as deductions. These include the statutory \$45 personal deduction and, in some cases, a home maintenance deduction. Wis. Admin. Code §DHS 103.07(1)(d), and the federal rule at 42 C.F.R. §435.725. The formula for calculating the patient liability amount is set out at Medicaid Eligibility Handbook (MEH), §27.7.1, found online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>.

In this case, the Petitioner's spouse testified on his behalf. She did not disagree with the agency's determination but requested an explanation with regard to why his patient liability has changed over the previous year. The agency representative explained that the Family Care program has more deductions applied to determine an enrollee's patient liability or cost of care. The Petitioner's wife questioned whether the Petitioner should re-enroll in Family Care and was advised to contact the Aging and Disability Resource Center to discuss the options for the Petitioner.

I reviewed the available evidence and the agency's calculations in this case. I did not find an error in the agency determination. Therefore, I find the agency properly determined the Petitioner's monthly patient liability effective June 1, 2015 was \$407.30.

### CONCLUSIONS OF LAW

The agency properly determined the Petitioner's monthly patient liability effective June 1, 2015 was \$407.30.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal 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 November, 2015

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\sDebra Bursinger  
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 November 13, 2015.

Washington County Department of Social Services  
Division of Health Care Access and Accountability