



FH

[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed October 26, 2015, under Wis. Admin. Code §HA 3.03 (1);, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a telephonic hearing was held on November 18, 2015, at Milwaukee, Wisconsin. At the request of the parties, the record was held open for briefs to be submitted to DHA. Those briefs were timely received at DHA and received into the hearing record.

The issue for determination is whether the Department correctly reduced reimbursement for the petitioner's crematory fee from \$395 to \$255 because the limit is \$1,000 for cemetery and crematory expenses, and \$745 was earlier paid on September 15, 2015 to [REDACTED] [REDACTED].

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: [REDACTED] income maintenance specialist
Division of Health Care Access and Accountability
Milwaukee Enrollment Services
P.O. Box 05676
Milwaukee, WI 53205-0676

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

[REDACTED]

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]), [REDACTED], was a resident of Milwaukee County who died on August 23, 2015.
2. The [REDACTED] had cremation services for the petitioner on August 27, 2015.
3. [REDACTED] held services for the petitioner on August 31, 2015.
4. On September 15, 2015, the Department received a [REDACTED] Wisconsin Funeral and Cemetery Aids Program (WFCAP) request for \$745 in reimbursement.
5. After reviewing the request, the agency approved the WFCAP reimbursement to [REDACTED] for \$745.
6. On September 25, 2015, the Department received from The [REDACTED] a WFCAP request for \$395.
7. The maximum reimbursement for cemetery expenses is \$1,000.
8. The Department sent a September 30, 2015 notice to the petitioner's provider, [REDACTED], stating that the petitioner's request for reimbursement of cremation charges under the Wisconsin Funeral and Cemetery Aids Program for the decedent, [REDACTED], was reduced and approved for only \$255 (rather than the requested \$395). The reason for the reduction was that WFCAP has a \$1,000 maximum cemetery expense reimbursement, \$745 had already been reimbursed to [REDACTED], and thus only \$255 remained from the maximum \$1,000 reimbursement per WFCAP Handbook, policy 2.6.2.

DISCUSSION

Wisconsin law requires the Department to pay up to \$1,500 of the funeral and burial expenses and **up to \$1,000 of the cemetery expenses** of certain indigent recipients of public benefits. Wis. Stat. § 49.785(1). The law is fairly simple. It lists the categories of aid that make a person eligible for the program. Wis. Stat. § 49.785(1c).

During the November 18, 2015 hearing and in her November 19, 2015 closing argument, [REDACTED] testified that because [REDACTED] submitted their reimbursement claim first (on September 15, 2015) that claim for \$745 was paid in full. The department then 10 days later, on September 25, 2015 received a WFCAP request for reimbursement of \$395 from the [REDACTED]. [REDACTED] explained that the WFCAP general policy is that reimbursement payment on made on the basis of "first requested, first paid."

During the hearing and in his November 20, 2015 closing argument, [REDACTED] testified that he believes the policy should change the general policy of "first requested, first paid." However, the basis for his argument that his reduced reimbursement was "unfair" was because he alleged he informed [REDACTED] of [REDACTED] that he would be requesting \$395 in reimbursement, and that [REDACTED] rushed to submit her full fee of \$745 for burial of [REDACTED] cremated remains. However, [REDACTED] was unable to refute that [REDACTED] had first submitted its reimbursement request, or to provide any policy to refute that the Department was following its general policy. Moreover, the dispute appears to be one between [REDACTED] and [REDACTED], not with the Department. Accordingly, based upon the above, I conclude that the Department correctly reduced reimbursement for the petitioner's crematory fee from \$395 to \$255 because the WFCAP reimbursement limit is \$1,000 for cemetery and crematory expenses, and \$745 was earlier paid on September 15, 2015 to [REDACTED].

[REDACTED]

CONCLUSIONS OF LAW

The Department correctly reduced reimbursement for the petitioner's crematory fee from \$395 to \$255 because the WFCAP limit is \$1,000 for cemetery and crematory expenses, and \$745 was earlier paid on September 15, 2015 to [REDACTED] [REDACTED].

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby 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 16th day of December, 2015

\sGary M. Wolkstein
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 December 16, 2015.

Division of Health Care Access and Accountability
Wisconsin Funeral and Cemetery Aids Program - DHS