



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/172958

PRELIMINARY RECITALS

Pursuant to a petition filed March 19, 2016, under Wis. Admin. Code § HA 3.03, to review a decision by the Rock County Human Services Department ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone from Madison, Wisconsin on April 7, 2016.

The issue for determination is whether it was correct to discontinue petitioner's MA Community Integration Program II ["CIP II"] services effective February 29, 2016 due to non-payment by petitioner of her CIP II cost share.

There appeared at that time via telephone 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: [REDACTED] Long-Term Support Social Worker
Rock County Human Services Department
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 62 years old) is a resident of Rock County, Wisconsin.
2. Petitioner was eligible for CIP II.
3. Petitioner has not paid her CIP II cost share since October 2015 and owes over \$1,000 in CIP II cost share amounts
4. The County discontinued petitioner's CIP II effective February 29, 2016 because petitioner failed to pay her CIP II cost share.

DISCUSSION

CIP II is run according to the terms of waivers that were granted to the State of Wisconsin by the United States government. The waivers allow the State of Wisconsin to operate CIP II without following all of the rules that normally apply to MA. Wis. Stat. § 46.277 (2013-14); See also, 42 U.S.C.A. § 1396n(c); and, 42 C.F.R. §§ 435.217, 440.180 & 441.300 et. seq.

CIP II is a source of funding for long-term support for people who would otherwise face institutional care. The purpose of CIP II is to provide funding for the option of community integration to people who are otherwise eligible for MA funded institutional care. Wis. Stat. § 46.277(1) (2013-14); *Medicaid Waivers Manual* (MW Manual), §§ 1.01, 2.0.1.2 & 2.07.C. (January 2010); *Medicaid Eligibility Handbook* ["MA Handbook"] 28.1.

The cost share is the monthly amount that a CIP II participant must contribute to the cost of his or her CIP II services. MW Manual 3.03; MA Handbook 28.8.3.1. A person's eligibility for CIP II can only be maintained if the cost share liability is met. MW Manual 2.10.A.5. Payment of the cost share is a condition of eligibility. MA Handbook 28.8.3.1. Petitioner does not dispute that she has not paid her cost share. Therefore, it was correct to discontinue petitioner's CIP II services.

Petitioner argues that she cannot afford the cost share. The law is clear that eligibility for CIP II can only be maintained if the cost share liability is met. It must also be pointed out that when calculating the amount of a person's cost share a person's expenses (such as rent, utilities, medical costs, etc.) are taken into account. MA Handbook 28.8.3.1.; MW Manual 3.03. Petitioner also argues that a \$2,400 hospital bed that she purchased should be used to meet her cost share. Certain medical and remedial expenses can be deducted from income when calculating the cost share amount. MA Handbook 28.8.3.5., 15.7.3 & 27.7.8; MW Manual 3.03.B.2.a. However, petitioner has not provided any documentation of that expense. Further, even if documentation had been provided, the County states that that expense was made in a prior budget period and cannot be used for the current budget period. See, MA Handbook 28.8.3.5.& 27.7.7.2.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to discontinue petitioner's CIP II services effective February 29, 2016 due to non-payment by petitioner of her CIP II cost share.

NOW, THEREFORE, it is

ORDERED

That 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 12th day of May, 2016

\sSean P. Maloney
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 May 12, 2016.

Rock County Department of Social Services
Bureau of Long-Term Support