



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

In the Matter of



DECISION
Case #: MGE - 175376

PRELIMINARY RECITALS

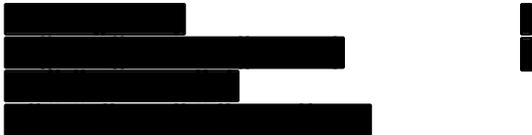
Pursuant to a petition filed on July 6, 2016, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Polk County Department of Social Services regarding Medical Assistance (MA), a hearing was held on August 17, 2016, by telephone.

The issue for determination is whether the petitioner's patient liability can be used to pay a nursing home bill incurred because she was eligible for medical assistance.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: 
Polk County Department of Social Services
100 Polk County Plaza, Suite 50
Balsam Lake, WI 54810

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) is a resident of Polk County.

2. The petitioner entered a nursing home on December 18, 2015, and became eligible for medical assistance on January 1, 2016.
3. The petitioner owes \$3,080 to the nursing home for December 18 – 31, 2015.

DISCUSSION

Those receiving institutional medical assistance must contribute all of their income exceeding allowable deductions to their medical care. Wis. Admin. Code, § DHS 103.07(1)(d). “Necessary medical or remedial care recognized under state law but not covered by MA.” is an allowable deduction. Wis. Admin. Code, § DHS 103.07(1)(d)4. Wisconsin allows recipients to use previously incurred medical expenses that the recipient remains legally obligated to pay as an income deduction that reduces her share of her medical care. *Medicaid Eligibility Handbook*, § 27.7.7.

One common medical expense is a nursing home bill incurred before the person became eligible for medical assistance. People often owe a substantial nursing home bill before they become eligible for medical assistance because a single person is ineligible for the program unless her assets are below \$2,000, and unpaid debts do not reduce this limit. The petitioner entered the nursing home on December 18, 2015, but was not found eligible for medical assistance until January 1, 2016. Her unpaid bill until the end of December is \$3,080. She requests that her share of her medical costs go toward this bill until it is paid.

The county worker testified that the request was denied because the county agency believes it must be ordered by an administrative law judge. I do not know of any such requirement. Regardless, it is clearly the type of debt covered by *Medicaid Eligibility Handbook*, § 27.7.7. I will order that her cost share be used to pay this bill until it is satisfied. After the hearing, the county worker sent me an email from a worker from another county outlining how to accomplish this payment, which is known as a deviation. She should use this to guide her.

CONCLUSIONS OF LAW

The petitioner’s share of her medical cost can be reduced to allow her to pay for the nursing home care she received before she was found eligible for medical assistance.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it reduce the petitioner’s share of her medical care to \$0 and allow her to use the amount she would be obliged to contribute to her care to pay off the \$3,080 nursing home she incurred from December 18 – 31, 2015. When that debt is paid, her cost share shall be reinstated.

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, **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 22nd day of August, 2016

\s _____
Michael D. O'Brien
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 22, 2016.

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