



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: MGE - 211383

PRELIMINARY RECITALS

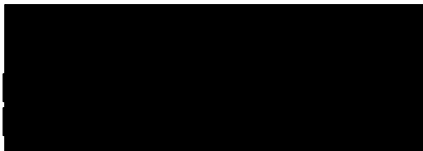
Pursuant to a petition filed on December 12, 2023, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services regarding Medical Assistance (MA), a hearing was held on February 28, 2024, by telephone. The hearing was first set for January 31, 2024 but rescheduled at the request of petitioner to accommodate the schedule of a third party she wished to assist her at the hearing.

The issue for determination is whether the agency properly declined to deduct a home maintenance allowance when calculating Petitioner's patient liability as of April 2021.

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: Shoua Lor

Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 71-year old unmarried resident of Marathon County who has resided in a skilled nursing facility since July 2023. She was found eligible for Institutional Medical Assistance at that time.
2. In 2023, Petitioner received monthly gross Social Security payments of \$1,331. Following an annual Cost of Living Adjustment, that amount increased to \$1,373 per month. She has no other monthly income.
3. Petitioner is eligible for SLMB+ and therefore no Medicare Part B premium is withheld from her Social Security benefit.
4. Petitioner was required to begin paying a patient liability as of July 1, 2023. At that time, her patient liability was calculated to be \$1,256 per month. As of August 1, 2023, it increased to \$1,286 per month.
5. Via notice dated November 27, 2023, the agency informed Petitioner that her patient liability would increase to \$1,328 as of January 2024. This increase occurred because of the increase in Petitioner's monthly Social Security payment.
6. On December 12, 2023, Petitioner filed an appeal of her patient liability amount.

DISCUSSION

Institutionalized individuals who receive Medicaid must generally pay a "cost of care" each month. This amount is referred to as a patient liability. See *Medicaid Eligibility Handbook (MEH)* §27.7.1. Family Care and IRIS members who are in, or who are likely to be in a medical institution for 30 or more days, are considered to be institutionalized and must therefore pay a patient liability. *Id.*

Because Petitioner was admitted to a skilled nursing facility in June 2023 and has remained there since that time, the agency properly determined that her cost of care must be calculated according to the formula for patient liability. The following income deductions may be applied when calculating the patient liability.

1. \$65 and ½ earned income [disregard](#)
2. Monthly cost for health insurance
3. Support payments
4. Personal needs allowance (typically \$45 per month)
5. Home maintenance costs, if applicable
6. Expenses for establishing and maintaining a court-ordered guardianship or protective placement, including court-ordered attorney and/or guardian fees
7. Medical Remedial Expenses.

Id. at §27.7.1.

Medical expenses include the costs for services or goods that (1) have been prescribed or provided by a professional medical practitioner for diagnosis, cure, treatment, or prevention of disease or for treatment affecting any part of the body, and (2) are not reimbursable by any other source, such as Medicaid, private insurance. Remedial expenses include costs incurred for services or goods that are provided for the purpose of relieving, remedying, or reducing a medical or health condition. *Id.* at §15.7.3

The agency correctly increased Petitioner’s patient liability as of January 2024 because her Social Security benefit increased. Petitioner testified that the \$45 personal needs allowance is not enough to allow her to purchase clothing, snacks, and shoes or to pay her telephone bill. Although I am sympathetic to Petitioner, the legal authorities that I am bound by do not give me the discretion to make any exceptions or to devise a different formula for calculating patient liability. And, there are no dedicated deductions for clothing, snacks, or phone bills.

Petitioner’s shoes might qualify as a medical or remedial expense but Petitioner did not offer sufficient documentation at hearing to establish that. If the shoes have been prescribed by a health care provider or if she needs particular style or type of shoes to relieve a health condition, she may provide that information directly to the agency. The agency would then be able to make a determination as to whether it is or is not allowable under Medicaid policy.

Based on the evidence in the record, the agency’s patient liability calculation was consistent with the applicable laws and policies, as detailed above.

CONCLUSIONS OF LAW

The agency properly calculated Petitioner’s patient liability effective January 2024.

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, 4822 Madison Yards Way, 5th Floor North, 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).

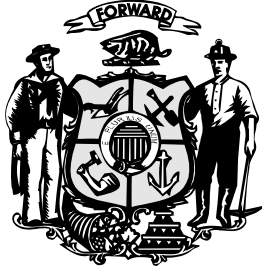
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 28th day of March, 2024



\s _____

Teresa A. Perez
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 March 28, 2024.

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