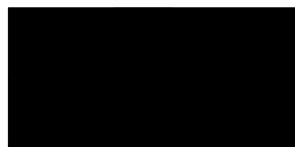




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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: WFC - 213597

PRELIMINARY RECITALS

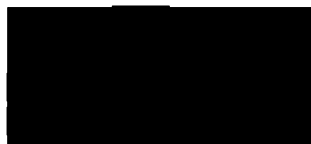
Pursuant to a petition filed on May 29, 2024, under Wis. Admin. Code §HA 3.03 (1);, to review a decision by the Division of Medicaid Services regarding Medical Assistance (MA), a hearing was held on June 19, 2024, by telephone.

The issue for determination is whether the respondent correctly determined that the petitioner was ineligible for funeral and cemetery aid because he was not in a qualifying category.

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: Sara Warwick
Division of Medicaid Services
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) was a resident of Brown County. He died on February █ 2024.
2. On April 3, 2024, the respondent received a Wisconsin Funeral and Cemetery Aid Program (WFCAP) application from █ for services rendered to the petitioner.
3. By decision dated April 29, 2024, the respondent denied the WFCAP application on grounds that the petitioner was not receiving any benefits to qualify for WFCAP on the date of his death.
4. On May 29, 2024, █ filed an appeal.

DISCUSSION

Wisconsin law requires the department to pay a portion of the cemetery expenses and funeral and burial expenses of indigent recipients of AFDC, W-2 benefits, Supplemental Security Income (SSI), or medical assistance under certain circumstances. Wis. Stat., §49.785(1).

The program policy is found in the WFCAP Manual, available over the internet at <http://www.emhandbooks.wi.gov/wfcap/fcap.htm>. The WFCAP Manual, at §1.1 and 1.3, makes clear that the decedent must have been in a qualifying category on the date of his death. Petitioner's representatives have not established eligibility for WFCAP benefits.

1.3 Potentially Eligible Decedents

DHS may issue WFCAP payments for the unmet funeral, cemetery, and crematory expenses of a person who on the confirmed date of death, met at least one of the following criteria:

1. The decedent was a Wisconsin Works (*W-2*) participant (paid placement only).
2. The decedent was a child for whom a Caretaker Supplement (*CTS*) or Kinship Care benefit was being made on their behalf.
3. The decedent was an Elderly Blind Disabled categorically needy *EBD*-related Medicaid individuals, except for Medicaid Purchase Plan (*MAPP*).
4. The decedent was a parent or caretaker relative receiving BadgerCare Plus with family income that does not exceed 50% of the [federal poverty level](#).
5. The decedent was a child receiving foster care or adoption assistance.
6. The decedent was a child under age six or was a pregnant woman receiving BadgerCare Plus with family income that did not exceed 185% of the federal poverty level.
7. The decedent was a child at least age six, but not yet 19, receiving BadgerCare Plus with family income that did not exceed 100% of the federal poverty level.
8. The decedent was a person eligible for categorically or medically needy institutional Medicaid at the time of death.
9. The decedent participated in one of Wisconsin's Home and Community-Based Waiver Programs, including *IRIS* (Include, Respect, I Self-Direct), or community waiver Medicaid Purchase Plan (*MAPW*).
10. The decedent was a member of Family Care.
11. The decedent was a Tuberculosis-Related (TB-Related) Only Medicaid recipient.

12. The decedent was the fetus of a woman in a WFCAP-qualifying Medicaid or BadgerCare Plus category as identified in [Section 1.3 Potentially Eligible Decedents](#).

13. The decedent was a participant in the Katie Beckett Program.

14. The decedent was a Supplemental Security Income (SSI), SSI State Supplement (SSI-SSP), or SSI Medicaid recipient who was a Wisconsin resident.

15. The decedent was an individual who met a Medicaid deductible and also qualified for a home-based program.

Note: There may be additional conditions that the decedent must have met on the confirmed date of death within [sic] the above programs in order to be considered potentially eligible.

Funeral, cemetery, and crematory expenses will not be paid for any individual who did not meet at least one of the above criteria on the confirmed date of death.

Note: When requesting payment for a stillborn of a Medicaid member, or live birth of a Medicaid member, service providers must provide all required demographic information for the Medicaid member on the application. In addition, the mother's name, Social Security number, and date of birth are required.

WFCAP Manual, § 1.3; see also Wis. Stats. § 49.785(1c).

Wis. Stat. §49.785 provides for WFCAP eligibility only if the decedent was a recipient of certain benefits. The respondent's representative testified at hearing that petitioner was not receiving any of the benefits listed above to qualify for WFCAP at the time of his death. This was not rebutted. The respondent's representative further indicated that petitioner last received benefits in ForwardHealth on September 30, 2023. As petitioner was not a qualifying recipient, under state law he was not eligible for WFCAP. I must, therefore, conclude that he was ineligible for the WFCAP benefit.

It was indicated by [REDACTED] that the petitioner was in the process of applying for a qualifying health care benefits but eligibility was not able to be determined prior to his death. The WFCAP policy provides the following under such circumstances:

1.6 Posthumous Health Care Application

If a decedent was not enrolled in one of the programs identified in [Section 1.3 Potentially Eligible Decedents](#) at the time of death, the service provider may still qualify for a WFCAP payment for the decedent's expenses if at the time of death or due to the cause of death, the decedent was eligible for Medicaid. Prior to the service provider submitting a WFCAP application, the decedent's representative or family must contact the decedent's [income maintenance agency](#) for a posthumous application to determine if the decedent was eligible for Medicaid. WFCAP does not determine income maintenance eligibility. Therefore, WFCAP cannot answer any questions regarding eligibility for decedents beyond stating 'potentially eligible' or 'not eligible.'

WFCAP Manual, § 1.3.

As of the hearing, a posthumous health care application had not been granted that placed the petitioner in a qualifying category at the time of his death. Thus, the WFCAP application was correctly denied. If the petitioner's family or representative believes that the posthumous health care application was incorrectly

denied or processed, it can file an appeal with the DHA. If the health care application is later approved and it places the petitioner in a WFCAP qualifying category, then [REDACTED] may seek to file a new application for WFCAP benefits. Of note, a WFCAP application “ must be received no later than the end of the 12th calendar month following the month of the decedent's date of death. An application received after that time period will be denied.” WFCAP Manual, § 2.11.

CONCLUSIONS OF LAW

The respondent correctly denied the petitioner’s April 3, 2024 application for the Wisconsin Funeral and Cemetery Aids Program as petitioner was not in a qualifying category at time of his death.

THEREFORE, it is ORDERED

That the 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, 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.

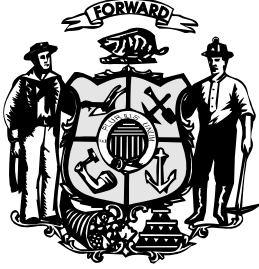
APPEAL TO COURT

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 25th day of June, 2024


vs _____
Jason M. Grace
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 June 25, 2024.

Division of Medicaid Services

Wisconsin Funeral and Cemetery Aids Program - DHS