FH [redacted]

# STATE OF WISCONSIN
# Division of Hearings and Appeals

In the Matter of

[redacted]

**DECISION**
Case #: MGE - 215261

## PRELIMINARY RECITALS

Pursuant to a petition filed on September 25, 2024, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on October 16, 2024, by telephone. This hearing was held with a companion appeal (FOO-215262). A separate decision has been issued regarding that appeal.

The issue for determination is whether the agency correctly disenrolled Petitioner from the Medicaid Purchase Plan (MAPP) program and the Community Waivers Group A program.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703
By: Stacy Green
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:
Wendy I. Smith
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County and was enrolled in the MAPP program from June 2023 through August 2024. Concurrently, she was also enrolled in the Community Waivers, Group A program. For this period, Petitioner did not have a cost-sharing requirement.

2. In a notice dated November 30, 2023, Respondent informed Petitioner that certain temporary policies implemented during the COVID-19 pandemic were ending. Petitioner was advised that, beginning in January 2024, MAPP members would need to meet a work requirement to continue to receive MAPP benefits, unless an exemption applies. The notice described how Petitioner may report compliance with the work requirement or seek a temporary exemption.

3. In a notice dated June 10, 2024, Respondent informed Petitioner that, due to the ending of the COVID-19 public health emergency, MAPP members with income over $1,255 per month before taxes and deductions would be required to pay a monthly premium to keep their MAPP benefits beginning in August 2024. Petitioner was advised that due to her income, she would be required to pay a monthly premium beginning in August 2024 unless her income went down.

4. In a notice dated July 8, 2024, Respondent informed Petitioner that she needed to provide proof of employment or self-employment to continue receiving MAPP benefits. Her due date to provide this information was July 29, 2024.

5. Petitioner did not provide Respondent with the required work verification by the stated deadline.

6. In a notice dated August 19, 2024, Respondent informed Petitioner that she had been disenrolled from the MAPP program. Petitioner was still eligible for the Community Waivers program, but Petitioner was now responsible for a cost-sharing amount of $127.50 per month, effective September 1, 2024.

7. At the time of the redetermination, Petitioner had a gross unearned income of $1,281.00 per month in Social Security benefits and a rent expense of $371.75 per month.

8. Petitioner now appeals her disenrollment in MAPP and her Community Waivers cost-sharing requirement to the Division of Hearings and Appeals.

## DISCUSSION

### *MAPP Enrollment*

The MAPP program allows disabled individuals who are working or who want to work to remain Medicaid eligible, even if employed, as the program has higher income limits than other Medicaid programs. Wis. Stat. § 49.472; *Wisconsin Medicaid Eligibility Handbook* (*Medicaid Handbook*) § 26.1. To be eligible for MAPP, an individual must (1) be a disabled adult, (2) meet all nonfinancial Medicaid requirements, (3) satisfy the MAPP work requirement, unless exempt, and (4) pay any required premium payments, unless exempt. Wis. Stat. § 49.472; *Medicaid Handbook* § 26.3.1. During the COVID-19 pandemic, the Wisconsin Department of Health Services (Department) changed the MAPP program rules to temporarily eliminate the MAPP work and premium payment requirements. However, beginning in January 2024, the Department reinstated the MAPP work requirement. In August 2024, the Department reinstated the premium payment requirement.

To meet the MAPP work requirement, members must engage in a work activity at least once per month or be enrolled in a Health & Employment Counseling (HEC) program. *Medicaid Handbook* § 26.3.3. A MAPP member may satisfy the work requirement through employment, self-employment, or other work that results in in-kind payments, such as doing yardwork or babysitting for a neighbor in exchange for meals or transportation. If a MAPP member is unable to work or participate in a HEC program due to serious mental or physical illness, they may request a suspension of the work requirement for up to six months, subject to exemption requirements. *Id.* at § 26.3.4. Even if temporarily exempt, the MAPP member must still pay any required premiums during the exemption period. *Id.*

In this case, Petitioner was advised in two notices (dated November 30, 2023, and June 10, 2024) that she would be, or was, subject to the MAPP work requirement. At the hearing, Petitioner claimed not to have received either of these notices by mail. Testimony of Respondent's representative was that the notices were mailed to the Petitioner's address of record, which was confirmed again as Petitioner's correct address at the hearing. Petitioner did not supply Respondent with verification of her employment or in-kind work activities by the deadline of July 29, 2024, nor did she seek to enroll in HEC or request exemption. After filing the instant appeal, Petitioner contacted the Respondent on October 2, 2024, to discuss her cost-sharing requirement and to request another work requirement notice. Respondent's representative testified that the notice was again sent to Petitioner by mail and email. Respondent still has not received verification of any work activities of Petitioner.

Petitioner's response at the hearing is that she is unable to work due to disability. However, MAPP is a program specifically for individuals who work or want to work and still maintain Medicaid eligibility. When Petitioner failed to respond to the work requirement notices, the agency was within its authority to disenroll Petitioner from the MAPP program.

*Community Waivers Enrollment & Cost-Sharing*

Petitioner's disenrollment from the MAPP program had implications for her concurrent enrollment in the Community Waivers program.

The Medicaid Community Waivers programs pay for long-term care services and supports to permit the elderly, blind, or disabled to remain in a home or community setting not normally covered by Medicaid. *Medicaid Handbook* § 28.1. To be eligible, an applicant must meet certain financial and non-financial requirements. The financial requirements depend on an applicant's financial eligibility group: Group A, Group B, or Group B Plus. *Id.* at § 28.6. Group A members those who are waiver functionally eligible and Medicaid eligible for any full-benefit Medicaid subprogram other than the Community Waivers programs. *Id.* at § 28.6.2. The MAPP program is a full-benefit Medicaid program that qualifies Community Waivers applicants to be enrolled in Group A. *See id.* at § 21.2. Group A members have no cost-sharing requirement. *Id.* at § 28.6.2.

Group B members are defined as those not in Group A but who have gross income at or below the nursing home institutions categorically needy income limit ($2,829.00 per month for a single-person assistance group as of the date of Petitioner's redetermination). *Id.* at §§ 28.6.3, 39.4. Group B Plus members are defined as those not in Group A, who have gross income above the nursing home institutions categorically needy income limit cited above, but whose income does not exceed the cost of the appropriate institutional care by more than the medically needy income limit. *Id.* Notably, Group B and Group B Plus members *do* have a cost-sharing requirement. *Id.* at § 28.6.4.

Prior to her disenrollment, Petitioner's full-benefit MAPP membership provided her with eligibility in Community Waivers Group A with no cost-sharing requirement. When Respondent disenrolled her from MAPP due to failure to provide work verification, Petitioner was no longer eligible for Group A and was then considered for Group B eligibility. Petitioner has been deemed eligible for Group B as her uncontested gross unearned income ($1,281.00 per month) is less than the Group B income limit.

Section 28.6.4 of the *Medicaid Handbook* governs the calculation of a cost-sharing amount for Group B members. The agency determines the member's monthly gross income and then applies specified deductions. The remaining amount after deductions is the member's monthly cost-sharing responsibility. In this case, Petitioner did not argue that the agency's calculation of the cost-share was somehow incorrect. Nevertheless, based on the record before me, it appears that the agency did not err in calculating the cost-share amount.

The agency calculated Petitioner's cost-sharing amount as follows:

**($1,281.00 gross unearned income) – ($1,153.50 Personal Maintenance Allowance) = $127.50**

The Personal Maintenance Allowance is an allowance for room, board, and personal expenses. *Medicaid Handbook* § 28.6.4.1. It is calculated as a total of the following, not to exceed the Personal Maintenance Allowance Maximum ($2,829.00 as of the date of Petitioner's determination per *Medicaid Handbook* § 39.4.3):

1. *Community Waivers Basic Needs Allowance (see Section 39.4.3 LTC Post-Eligibility Allowances)*
2. *Sixty-five dollars and ½ earned income deduction (see Section 15.7.5 $65 and ½ Earned Income Deduction)*
3. *Special housing amount equal to monthly housing costs over $350. If the waiver applicant's housing costs are over $350, add together the following costs and subtract $350 to get the special housing amount:*
    1. *Rent.*
    2. *Home or renter's insurance.*
    3. *Mortgage.*
    4. *Property tax (including special assessments).*
    5. *Utilities (heat, water, sewer, electricity).*
    6. *Room amount for members in a CBRF, Residential Care Apartment Complex, or Adult Family Home. The case manager determines and provides this amount.*

*Id.* at § 28.6.4.1. The agency calculated Petitioner's Personal Maintenance Allowance as follows:

**($1,123.00 Basic Needs Allowance) + ($30.50 Special Housing Amount) = $1,153.50**

The Special Housing Amount is calculated per *Medicaid Handbook* § 28.6.4.1 as the member's monthly housing costs over $350.00. The agency calculated Petitioner's Special Housing Amount as follows:

**($380.50 Rent & A/C Surcharge) – ($350 deduction) = $30.50**

Respondent's rent calculations above are based on Petitioner's reported housing expenses on file as of the date of the redetermination. I note that Petitioner informed the agency on or about September 16, 2024, that her rent was increasing. This may change the agency's calculation of cost-share. But any such determination is outside the scope of this appeal.

Respondent did not apply the "Sixty-five dollars and ½ earned income deduction" to Petitioner's Personal Maintenance Allowance calculation as Petitioner's only income is unearned.

With no evidence of error in calculating Petitioner's cost-share amount of $127.50 per month, I have no authority to deviate from this determination as it appears to have been made in accordance with program rules.

## CONCLUSIONS OF LAW

1. Respondent was within its authority to disenroll Petitioner from the MAPP program for failure to satisfy the MAPP work requirement.

2. Because Petitioner was no longer eligible for MAPP or any other full-benefit Medicaid program, Petitioner was no longer eligible for Community Waivers as a Group A member.

3. Because Petitioner was eligible for Community Waivers as a Group B member, Respondent was within its authority to impose a cost-share requirement to continue to receive benefits.

4. Based on the record, Respondent properly calculated Petitioner's cost-share amount in accordance with program rules.

## THEREFORE, it is ORDERED

That Petitioner's 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 Milwaukee,
Wisconsin, this 21st day of October, 2024

\s_____
Wendy I. Smith
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 October 21, 2024.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability