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[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

Case #: MGE - 215707

PRELIMINARY RECITALS

Pursuant to a petition filed October 30, 2024, under Wis. Stat., §49.45(5), and Wis. Admin. Code, §HA 3.03(1), to review a decision by the Barron County Dept. of Human Services regarding Medical Assistance (MA) and Family Care Program (FCP) costs shares and a proposed discontinuance of the FCP, a hearing was held on January 15, 2025, by telephone. A hearing set for December 11, 2024 was rescheduled at the petitioner's request.

The issue for determination is whether petitioner failed to pay the appropriate cost shares.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Kristen Burstad
Barron County Dept. of Human Services
335 E Monroe Ave
Barron, WI 54812

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Polk County. Barron County DHS is a lead county for the Great Rivers IM Consortium that includes Polk County.

2. Petitioner has been eligible for the Medicaid Purchase Plan (MAPP), and concurrent with that eligibility, the FCP. During the pandemic petitioner did not have to verify a work activity for MAPP eligibility. Her monthly income during that time was \$1,606 social security and \$1,184.56 sick/disability benefits.
3. In 2024, when MAPP policy reverted to requiring a work activity, petitioner's daughter/representative informed the economic support worker that petitioner did not do a work activity. Therefore, MAPP closed effective July 1, 2024, and petitioner's FCP eligibility would remain in place only if she paid a monthly cost share.
4. Petitioner's last sick/disability payment was received in August, 2024. Beginning September, 2024 her only income was social security.
5. After the verification process was completed, the agency reopened the FCP by a notice dated August 6, 2024, retroactive to July 1. The notice informed petitioner that she had to pay a monthly cost share of \$1,667.56. Petitioner's daughter did not pay the cost shares.
6. By a notice dated October 3, 2024, the agency informed petitioner that the FCP would end November 1, 2024 because she did not pay the cost share. Petitioner filed this appeal, and benefits were ordered to be continued pending this decision.
7. On October 17, 2024, petitioner's daughter informed the worker that the sick/disability income ended in August. The worker continued FCP eligibility under the continued benefits order but reduced the cost share to \$467.20 effective October 1, 2024. As of the hearing, petitioner's daughter still had not paid any cost shares.

DISCUSSION

The Family Care program, which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized under Wisconsin Statute, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10. See also MA Handbook, Chapter 28.

A person who is eligible for MA is eligible for the FCP without a cost share, which is called Group A. Handbook, Appendix 28.6.2. That was petitioner's category until MAPP closed. Now she would be eligible under Group B or B+, which include individuals not in Group A. Individuals in Group B not only must meet income requirements but asset limits as well. Handbook, App. 28.1.2.

Group B status is available to a person who has gross income below the institutions categorically needy income limit, which currently is \$2,829. Handbook, §39.4.1. If income is higher, a Group B recipient may have health insurance premiums, certain medical/remedial expenses and a Personal Maintenance Allowance (possibly including housing expenses) subtracted from her income before a cost share is computed. 42 C.F.R. §435.726; Wis. Admin. Code, §DHS 103.07(1)(d).

When MAPP ended, the agency determined FCP eligibility by taking her gross monthly income and subtracting a \$1,123 personal needs allowance and \$174.70 health insurance premium to come up with the \$1,667.56 cost share. The cost share reduced when petitioner's daughter reported the end of the sick/disability income.

A person who is required to contribute to the cost of her care but who fails to make the required contributions is ineligible for the FCP. Wis. Stat., §49.286(2)(c); Wis. Admin. Code, §§DHS 10.32(1)(f) & 10.34(4)(a).

Here the cost share was determined correctly. Petitioner failed to make the required payments. The agency thus correctly sought to close the FCP. At the hearing I asked if petitioner could remain eligible for the FCP if she paid the current cost share and agreed to a plan to pay the missed payments. The FCP representatives from Inclusa agreed that she could. I thus will dismiss the appeal because the agency actions were correct, and petitioner's daughter should work with Inclusa to keep the program open. I note, finally, that there is a provision to waive or reduce cost share requirements due to undue hardship. Wis. Admin. Code, §DHS 10.34(4)(b); see also the *FCP contract*, §III-D. Petitioner's daughter might also look into having the cost share reduced to make up for the back payments.

CONCLUSIONS OF LAW

The agency correctly sought to close petitioner's FCP because she failed to pay the monthly cost share.

THEREFORE, it is

ORDERED

That the petition for review 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, 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.

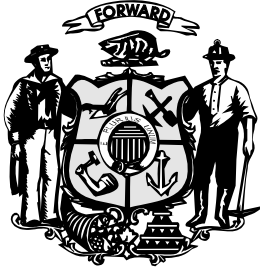
APPEAL TO COURT

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 17th day of January, 2025

\s _____
Brian C. Schneider
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 January 17, 2025.

Barron County Department of Human Services
Division of Health Care Access and Accountability