



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 216220

PRELIMINARY RECITALS

Pursuant to a petition filed on December 11, 2024, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Door County Department of Social Services regarding Medical Assistance (MA), a hearing was held on April 17, 2025, by telephone. At the request of the Petitioner's representative, the hearing was rescheduled from January 23, 2025; February 20, 2025; March 5, 2025; March 11, 2025; and April 2, 2025.

The issue for determination is whether the agency correctly determined the Petitioner's patient liability.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jessica Ingersoll

Door County Department of Social Services
Door County Government Center
421 Nebraska Street
Sturgeon Bay, WI 54235-0670

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Door County.
2. The Petitioner was enrolled in Nursing Home Long Term Care-MA as of February 2024.
3. On August 28, 2024, the agency set the Petitioner a notice containing the following information:

When you enrolled in Medicaid, we were able to use a portion of the balance owed to [REDACTED] nursing home (June and July 2023, prior to the divestment period, \$11,340) to decrease your patient liability to zero. Your portion of the cost of care for Medicaid is \$1239 per month at this time. That cost is decreased to zero, until the \$11,340 is reduced to zero. The freed up patient liability (\$1239) funds are meant to be given to the nursing home, to decrease the bill for that time frame so that it can get to zero. Per discussion with [REDACTED] you owe \$44,000 and no payment have been made. We also reviewed your bill with [REDACTED] and you owe a balance of \$25081.48, with no payments being made. We will need to verify how you have been spending your social security income for the time period from 8/1/23 to 7/3/24, as you should have been giving at least the equivalent of your patient liability (1239) to the nursing home to pay down the balance owed.

When someone resides in a nursing home and they express intent to return home, they are allowed a 6 month period where expenses such as rent or mortgage, tax., WPS, etc. are allowed as a deduction from countable income, to decrease patient liability for Medicaid. This period was allowed from Feb 2024-July 2024. Going forward, there is no deduction to maintain the home. Those expenses will not be allowable from your funds going forward. Again, you will need to provide detailed and chronological receipts to verify how her funds have been being spent down from 8/1/23-7/31/24. The receipts you provided previously are not all for the time period in question, do not all verify as paid and are not in order.

...

4. The Petitioner had no patient liability for February 2024 through November 2024.
5. On November 19, 2024, notice was issued to the Petitioner that indicated her patient liability for December 2024 was \$454.16. This was based on income from social security in the amount of \$1,284 and medical/remedial bills of \$774.84 for December 2024.
6. On December 9, 2024, notice was issued to the Petitioner that her monthly patient liability had increased to \$1,261.00 as of January 1, 2025, as her social security income increased to \$1,316.00.
7. The Petitioner appealed her patient liability.

DISCUSSION

After an institutionalized person is determined eligible for MA, a county agency must calculate the amount of income the institutionalized person must contribute to defray the cost of care incurred by MA

on his or her behalf on a monthly basis. This is referred to as the person's "patient liability." The calculation begins with gross income, and only a few items may be subtracted as deductions. These include the statutory \$55 personal needs allowance deduction, necessary medical or remedial care expense deduction, a health insurance expense deduction and, in some cases, a home maintenance deduction. Wis. Admin. Code §DHS 103.07(1)(d). The formula for calculating the patient liability amount is set out at Medicaid Eligibility Handbook (MEH), §27.7, found online at http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm#t=policy_files%2F27%2F27.7.htm.

Calculate the cost of care in the following way:

1. For a Medicaid member in a medical institution who does not have a community spouse, subtract the following from the person's monthly income:
 - a. \$65 and ½ earned income disregard (see SECTION 15.7.5 \$65 AND ½ EARNED INCOME DEDUCTION).
 - b. Monthly cost for health insurance (see SECTION 27.6.4 HEALTH INSURANCE).
 - c. Support payments (see SECTION 15.7.2.1 SUPPORT PAYMENTS).
 - d. Personal needs allowance (see SECTION 39.4 ELDERLY, BLIND, OR DISABLED ASSETS AND INCOME TABLES).
 - e. Home maintenance costs, if applicable (see SECTION 15.7.1 MAINTAINING HOME OR APARTMENT).
 - f. Expenses for establishing and maintaining a court-ordered guardianship or protective placement, including court-ordered attorney and/or guardian fees (see SECTION 27.6.6 FEES TO GUARDIANS OR ATTORNEYS).
 - g. Medical or remedial expenses (see SECTION 27.7.7 MEDICAL OR REMEDIAL EXPENSES AND PAYMENTS FOR NONCOVERED SERVICES).

...

If the cost of care amount is equal to or more than the medical institution's Medicaid rate, the individual is responsible for the entire cost of his or her institutional care. He or she would be entitled to keep any overage without restriction. He or she would remain eligible for the Medicaid program and have no further financial obligation to the Medicaid program for that month.

MEH §27.7.1. The personal needs allowance is \$55.00. MEH, § 39.4.3.

There is no evidence in the record that the Petitioner has earned income, monthly health insurance costs, support payments, or any expenses associated with a court-ordered guardianship or protective placement. The record does indicate that she had medical/remedial expenses from unpaid nursing home stay prior to enrolling in Nursing Home Long Term Care-MA. See MEH, §§ 27.7.7.1 and 27.7.7.2. A monthly deduction for that expense helped reduce her patient liability to \$0.00 for the months of February 2024 through November 2024.

In determining the Petitioner's December 2024 patient liability, it was found that she had social security income of \$1,284.00. The agency provided a person needs allowance deduction of \$55.00 and the remaining portion of the nursing home expense of \$774.84 as a medical/remedial expense deduction. This resulted in a December 2024 patient liability of \$454.16. The agency also found that the Petitioner's patient liability would increase to \$1,261.00 as of January 2025. Her social security income increased to \$1,316.00 in January 2025, and the only deduction she qualified for is the personal needs allowance of \$55.00. The record supports the agency's patient liability determinations.

At hearing, the Petitioner's representative argued that a home maintenance deduction should be applied as the Petitioner plans on returning to her home. MEH§ 27.7.1 indicates that the cost of home maintenance is to be deducted from the patient liability under the following circumstances:

If a person residing in a medical institution (see SECTION 27.1.1 INSTITUTIONS INTRODUCTION) has a home or apartment or was residing in an assisted living facility prior to institutionalization, deduct an amount from their income to allow for maintaining the home, apartment, or room at the assisted living facility that does not exceed the Institutions Home Maintenance Allowance Maximum (see SECTION 39.4.3 LTC POST-ELIGIBILITY ALLOWANCES). The amount is in addition to the \$55 personal needs allowance. It should be enough for mortgage, rent, property taxes (including special assessments), home or renters' insurance, utilities (heat, water, sewer, electricity), and other incidental costs. If the member was residing at an assisted living facility prior to institutionalization, use the facility's room and board rate, up to the maximum, for the home maintenance deduction.

Make the deduction only when both the following conditions are met:

- A physician provides a statement (verbally or in writing) certifying that the person is likely to return to the home or apartment within six months.
- The person's spouse is not living in the home or apartment.

Deduct this amount for no more than six months. If the person is re-admitted to the institution, grant a six-month continuance. A physician must again certify that the person is likely to return to the home or apartment within six months.

The home maintenance allowance can be granted at any time. It is not limited to the first six months the person resides in the medical institution.

MEH, § 15.7.1 (*emphasis added*).

My understanding is that the cost of maintaining the Petitioner's home was already granted when determining her patient liability for the first 6 months of her nursing home stay from February 2024 through July 2024. The Petitioner's representative argued she should qualify for the 6 month continuance noted in the policy above as she was scheduled to be discharged from the nursing home but an accident occurred that prolonged that stay. I agree with the agency that the Petitioner does not qualify for the 6 month continuance of the home maintenance deduction as she did not leave and later be re-admitted to the nursing home or other institutionalized setting as required by MEH § 15.7.1.

Finally, I note that a separate decision is being issued in DHA Case No. MGE-215302 addressing her disenrollment from Nursing Home Long Term Care MA.

CONCLUSIONS OF LAW

1. There was no patient liability imposed on the Petitioner for the months of February 2024 through November 2024.
2. The agency correctly found the Petitioner to have a patient liability of \$454.16 for December 2024.
3. The agency correctly found the Petitioner's patient liability increased to \$1,261.00 starting January 2025.

THEREFORE, it is

ORDERED

That the 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.

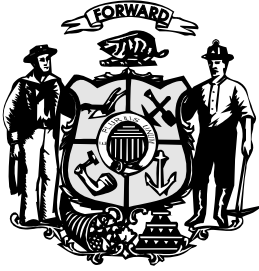
APPEAL TO COURT

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 Madison,
Wisconsin, this 27th day of May, 2025

\s_____
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 May 27, 2025.

Door County Department of Social Services
Division of Health Care Access and Accountability
[REDACTED]