



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: FCP - 217987

PRELIMINARY RECITALS

Pursuant to a petition filed April 19, 2025, under, Wis. Admin. Code, §DHS 10.55, to review a decision by the Dunn County Dept. of Human Services regarding the Family Care Program (FCP), a hearing was held on June 4, 2025, by telephone.

The issue for determination is whether a monthly FCP cost share can be waived after petitioner opted out of the program.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: April Koch
Dunn County Dept. of Human Services
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Burnett County.
2. Petitioner's sister, who is power of attorney, first applied for Medicaid Waivers on petitioner's behalf in December, 2024. Eventually she was found eligible. She enrolled in the FCP on March 2, 2025, with Inlusa as the managed care organization (MCO).
3. By a notice dated February 26, 2025, the income maintenance agency informed petitioner that she was eligible for Community Waivers with a monthly cost share of \$966.17.
4. After enrolling, petitioner's sister discussed services with Inlusa staff. She determined that the types of services available under the FCP were not what she was seeking for petitioner. She thus disenrolled from the FCP as of March 21, 2025. At that point the only service provided by Inlusa was case management because no other services were arranged.
5. Petitioner filed this appeal to determine if the cost share for March, 2025, which was assessed on March 4 after enrollment, can be waived.

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 Medicaid Handbook at §28.1, etc.

Petitioner was eligible for the FCP. An eligible person's income is reviewed to determine if the recipient has enough income to be responsible for payment of a monthly "cost share." Handbook, §28.6. There is no dispute that petitioner's cost share was determined correctly.

The administrative code contains a provision regarding waiver of current cost share amounts:

(4) PAYMENT OF COST SHARE REQUIRED.

(a) Except as provided in par. (b), a person who is required to contribute to the cost of his or her care but who fails to make the required contributions is ineligible for the family care benefit.

(b) If the department or its designee determines that the person or his or her family would incur an undue financial hardship as a result of making the payment, the department may waive or reduce the requirement. Any reduction or waiver of cost share shall be subject to review at least every 12 months. A reduction or waiver under this paragraph shall meet all of the following conditions:

1. The hardship is documented by financial information beyond that normally collected for eligibility and cost-sharing determination purposes and is based on total financial resources and total obligations.
2. Sufficient relief cannot be provided through an extended or deferred payment plan.
3. The person is notified in writing of approval or denial within 30 days of providing necessary information to the department or its designee.

Wis. Admin. Code, §DHS 10.34(4)(a) and (b). See also the *FCP contract*, §III.D.2, found at www.dhs.wisconsin.gov/familycare/mcos/fc-fcp-2025-contract.pdf. The code says that the department “may” waive/reduce the cost share requirement—it is not required to do so. To request a waiver, the person is directed to complete form DHS F-01827. It is available on-line, or can be requested from the county agency or Includa.

I cannot find a legal basis for the Division of Hearings and Appeals to order that the cost share be waived because petitioner chose to not pursue FCP services. When she enrolled, she became liable for the cost share. The only way to have the cost share waived is to request a waiver by filing Form F-01827. There was no mention in the hearing of such a request being made prior to filing this appeal. That said, the only penalty that I can see for failure to pay the cost share is ineligibility for the FCP. Petitioner already has chosen to disenroll from the program.

CONCLUSIONS OF LAW

There is nothing in the FCP law or state contract that allows the Division of Hearings and Appeals to waive a monthly FCP cost share directly upon appeal; a waiver must be requested through the Department’s Bureau of Programs and Policy.

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.

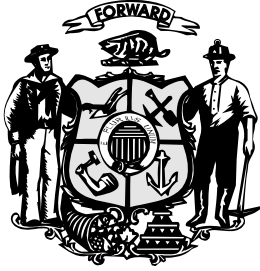
APPEAL TO COURT

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 10th day of June, 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 June 10, 2025.

Dunn County Department of Human Services
Office of Family Care Expansion
Health Care Access and Accountability