



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

Case #: FCP - 220016

PRELIMINARY RECITALS

Pursuant to a petition filed on September 15, 2025, under Wis. Admin. Code § DHS 10.55, to review a decision by the Community Care Inc. regarding Medical Assistance (MA), a hearing was held on October 1, 2025, by telephone.

The issue for determination is whether this appeal was untimely filed.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Petitioner's Representative:

[REDACTED]

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703
By: Kelly Her
Community Care Inc.
205 Bishops Way
Brookfield, WI 53005

ADMINISTRATIVE LAW JUDGE:
Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner is a 69 year old resident of Milwaukee County.
2. On April 11, 2025, the petitioner was sent a notice from Milwaukee Enrollment Services that he was eligible for community waivers and would have a cost share of \$109 per month. This notice provided appeal rights and stated that an appeal would be due by May 27, 2025.
3. On April 15, 2025, the petitioner enrolled in FamilyCare with the Managed Care Organization (MCO) Community Care.
4. On May 24, 2025, the MCO started billing the petitioner his monthly \$109 cost share.
5. As of September 9, 2025, the petitioner had an outstanding cost share balance of \$654 with the MCO and had not made any payments.
6. On September 12, 2025, the petitioner applied for FoodShare and updated his expenses with the agency. This resulted in a reduction in his cost share from \$109 per month to \$99 per month. A notice was sent out on September 19, 2025 with the new cost share amount.
7. On September 15, 2025, the petitioner filed an appeal with the Division of Hearings and Appeals regarding his cost share.

DISCUSSION

The *Medicaid Eligibility Handbook (MEH)*, §28.6.1, lays out the rules and policies for FamilyCare cost shares. Group A members are people who are enrolled in another form of Medicaid continuously with FamilyCare, *i.e.* MAPP or SSI Medicaid. Group A members do not have a cost share. Group B and Group B+ members must pay a monthly cost share after taking into consideration out of pocket medical expenses, special exempt income, and a few other very specific deductions. The 2025 basic needs allowance for a person on community waivers is \$1,147. *MEH* §39.4.3. According to the *MEH* §28.6.4.1, the member is entitled to a deduction from their cost share for housing and utility costs that exceed \$350 per month. These costs include rent or mortgage, property taxes, renter's or homeowner's insurance, and utility costs. *MEH* §28.6.4.1. Out of pocket medical expenses are also deducted from a cost share pursuant to *MEH* §15.7.3 and *MEH* §28.6.4.5.

In this case, the IM agency determined the petitioner's cost share by taking his monthly gross income of \$1,523 and subtracting the basic needs allowance of \$1,147, the special housing amount of \$85, and the Medicare Part B premium amount of \$182. This resulted in a cost share of \$109 per month. The petitioner was responsible for paying this cost share each month as a condition of eligibility for the FamilyCare program.

At the hearing, the petitioner testified that he had asked his case manager at Community Care to put his FamilyCare benefits "on hold" between June 2025 through August 2025. The petitioner had been experiencing homelessness at that time and felt he would not be able to utilize the benefits or services provided by FamilyCare. He believed that placing his FamilyCare benefits "on hold" would mean that he was not responsible for paying a cost share balance for those months. It was undisputed that the petitioner had not gone to the Aging and Disability Resource Center (ADRC) to disenroll from FamilyCare during that time. At the hearing, the petitioner requested that his cost share balance be zeroed out for the months when he was not receiving any services through FamilyCare.

The Division of Hearings and Appeals can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if an appeal is untimely. Medicaid appeals must be filed within 45 days of the date of the notice of action. See Wis. Stat. § 49.45(5); Wis. Admin. Code § DHS 104.01(5)(a)3; Wis. Admin. Code § HA 3.05(3); and see also 42 C.F.R. § 431.221(d). The Division of Hearings and Appeals must dismiss a hearing request that is not received within the 45 day time period. Wis. Admin. Code § HA 3.05(4)(e). Here, the petitioner was sent a notice on April 11, 2025, with his monthly cost share amount for the FamilyCare program. The notice contained appeal rights and stated that an appeal was due by May 27, 2025. The petitioner filed his appeal on September 15, 2025. As such, this appeal was untimely filed, and the Division of Hearings and Appeals has no jurisdiction to decide the case.

The petitioner may consider filing out the *Application for Reduction of Cost Share* form (F-01827) from the Wisconsin Department of Health Services. He can ask his FamilyCare case manager for assistance with this or find the form online here <https://www.dhs.wisconsin.gov/forms/f01827.pdf>.

CONCLUSIONS OF LAW

The petitioner's appeal was untimely filed; therefore, no jurisdiction exists for the Division of Hearings and Appeals to render a decision in the case.

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, 201 E. Washington Ave., **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 8th day of December, 2025

\s _____
Kate J. Schilling
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 December 8, 2025.

Community Care Inc.
Office of Family Care Expansion
Health Care Access and Accountability
[REDACTED]
[REDACTED]