FH [redacted]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

DECISION
Case #: MGE - 220307

PRELIMINARY RECITALS

A petition was filed on October 2, 2025, 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 initially scheduled for October 29, 2025, but was rescheduled at the request of the petitioner's representative. A hearing was then held on November 20, 2025, by telephone. The hearing record was left open for one week following the hearing for the submission of additional documents from the agency.

The issue for determination is whether the agency correctly denied the petitioner's application for Medicaid community waivers.

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: Kyra Oberg
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

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

FINDINGS OF FACT

1. Petitioner (CARES # [redacted]) is an 89 year old resident of Wisconsin who has lived in an assisted living memory care unit in Milwaukee County for the past 2 ½ to 3 years.

2. On July 24, 2025, the petitioner's representative completed an online application for health care (Medicaid) on the petitioner's behalf. The petitioner had not had a long-term care functional screen through the Aging and Disability Resource Center.

3. On July 25, 2025, the agency processed the petitioner's application for Medicaid and requested verification of income and assets due on August 20, 2025.

4. On August 21, 2025, the agency denied the Medicaid application due to failure to verify income sources and a bank account.

5. On September 26, 2025, the petitioner re-applied for Medicaid. On September 29, 2025, the petitioner's application for Medicaid was denied due to being over the asset limit as the agency was (incorrectly) counting the petitioner's burial assets as an available asset.

6. On October 2, 2025, the petitioner's representative filed an appeal with the Division of Hearings and Appeals.

7. Following the receipt of the petitioner's appeal, an agency supervisor reviewed the case and determined that the burial assets were exempt as they had been irrevocably transferred to the funeral home. The petitioner was determined to have less than $2,000 in countable assets.

8. On November 17, 2025, the petitioner's representative submitted verification documents to the agency.

9. On November 21, 2025, the agency determined that based on the petitioner's monthly income of $4,359.73, she would be eligible for the Medicaid deductible program with a 6 month deductible of $18,213. (This was subsequently adjusted to deductible of $17,103.36.)

DISCUSSION

The Family Care Program is a Medical Assistance home and community based waiver program designed to provide long-term care services for individuals with physical and developmental disabilities and elderly individuals through a managed care service delivery model. See Wis. Stat. §46.286, Wis. Admin. Code ch. DHS 10, Family Care 1915(b) Waiver, and Family Care 1915(c) Home and Community-Based Services Waiver. The Department of Health Services ("the Department") contracts with managed care organizations (MCOs) throughout the state to provide services to Family Care members. See the Family Care / Partnership 2025 Contract (available online at https://www.dhs.wisconsin.gov/familycare/mcos/contract.htm).

To be eligible for Family Care, a person must apply for benefits and meet the program's financial, non-financial, and functional criteria. Wis. Stat. §46.286(1); Wis. Admin. Code §§ DHS 10.32(1)(d) and (e). The Aging and Disability Resource Centers (ADRCs) complete the initial functional screen, and the Income Maintenance ("IM") agencies determine financial and non-financial eligibility. Wis. Admin. Code

§10.31(4)(a). However, a person who meets all of the program eligibility criteria is not entitled to receive benefits until he is enrolled in a managed care organization (MCO). See Wis. Stat. §46.286 ("A person is eligible for, but not necessarily entitled to, the FamilyCare benefit if [the person satisfies all eligibility criteria]"), Wis. Admin. Code § DHS 10.36(1), and Wis. Admin. Code § DHS 10.41(1). In other words, an individual cannot begin to actually receive FamilyCare benefits until s/he is enrolled in a managed care organization and s/he cannot be enrolled in a managed care organization until s/he is found eligible for Medicaid. If a person loses Medicaid financial eligibility, they will consequently be disenrolled from FamilyCare.

In this case, the petitioner's representative applied for Medicaid using the online Elder, Blind, and Disabled (EBD) Medicaid application. However, the agency did not know that the petitioner was requesting coverage for long-term care Medicaid. Additionally, the petitioner had not yet had a long-term care functional screen done by the Aging and Disability Resource Center (ADRC) staff to verify functional eligibility as required for long-term care Medicaid community waivers. The completion of a long-term care functional screen would have triggered the ADRC to notify Milwaukee Enrollment Services of the request for community waivers.

At the hearing, the agency representative testified that eligibility was initially denied due to lack of verification of income and assets. The petitioner's representative then re-applied for Medicaid the following month; however, the agency incorrectly denied her eligibility for Medicaid due to determining that her burial assets were a countable asset. Upon further review, the agency supervisor determined that the burial assets were exempt due to being irrevocably transferred to a funeral home. Once the missing verification items were submitted, the agency determined that the petitioner was eligible for a Medicaid deductible with an $18,213 deductible.

The petitioner's representative testified at the hearing that she had applied for Medicaid as her mother had spent down her assets paying for her care in the memory care facility. She currently had $2,000 or less in countable assets aside from the exempt burial assets. She acknowledged that her mother had monthly income of $4,359.73, but indicated that her monthly cost of care at the facility was approximately twice that much and she could no longer afford to pay it. Therefore, she was applying for long-term care Medicaid to help pay the monthly cost at the assisted living facility.

The petitioner's representative expressed difficulty navigating the long-term care system and knowing which agencies performed which functions. This is understandable. Given that the petitioner is living in an assisted living facility, the only long-term care program she is eligible for is FamilyCare. (Institutional Medicaid requires a person to be living in a skilled nursing facility/nursing home; individuals living in an assisted living facility or community based residential facility are not eligible for IRIS.) In order to be eligible for FamilyCare, the petitioner must be financially eligible as determined by the Income Maintenance Consortium, in this case Milwaukee Enrollment Services, and must meet a nursing home level of care according to a functional screen performed by staff at the Aging and Disability Resource Center. The petitioner's representative was not aware that the functional screen had to be completed and thus had not initiated that process with the ADRC.

The Medicaid application in this case was completed via ACCESS online. Unlike the paper EBD Medicaid application, the ACCESS application does not specifically ask if the applicant is seeking long-term care coverage. (Agency Exhibit 12). (See also EBD Medicaid application, updated March 2024, Section 20, page 21, https://www.dhs.wisconsin.gov/forms/f1/f10101.pdf) However, the ACCESS application did ask if the petitioner needed assistance with Activities of Daily Living (ADLs) to which she marked "yes," (Agency Exhibit 12, page 8) and it clearly stated the petitioner was living in an assisted living under the "Where you live" section (Agency Exhibit 12, page 5). The agency representative

learned that the petitioner was seeking long-term care coverage during a phone call with the petitioner's representative shortly before the hearing.

The agency ultimately approved the petitioner for Medicaid card services through the deductible program. However, this program does not cover the cost of long-term care. In order to be eligible for FamilyCare, the petitioner must have a functional screen and meet the requisite level of care. As the petitioner had not yet had a functional screen, she was not eligible for Medicaid community waivers.

CONCLUSIONS OF LAW

The agency correctly denied the petitioner's application for Medicaid as the petitioner was seeking approval for community waivers and had not yet been determined functionally eligible.

THEREFORE, it is **ORDERED**

That this appeal 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 12th day of January, 2026

\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 January 12, 2026.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability
[redacted]