



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: MGE - 220759

PRELIMINARY RECITALS

Pursuant to a petition filed on November 6, 2025, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Polk County Department of Social Services regarding Medical Assistance (MA), a hearing was held on December 23, 2025, by telephone.

The issue for determination is whether the agency correctly determined the petitioner's monthly patient liability for Institutional Medicaid.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703

By: David Bernhardt
Polk County Department of Social Services
100 Polk County Plaza, Suite 50
Balsam Lake, WI 54810

ADMINISTRATIVE LAW JUDGE:

Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 71 year old resident of Washburn County. In April 2025, he moved into a skilled nursing facility. His Medicare plan covered the first 90 days of his stay.
2. On September 4, 2025, the petitioner applied for Institutional Medicaid. The petitioner had gross income of \$1,928 in Social Security benefits and \$3,148.68 in gross pension income, totaling \$5,076.68 in total gross monthly income. (Agency Exhibit A)
3. On October 16, 2025, the petitioner was approved for Institutional Medicaid. The petitioner's September patient liability was calculated at \$3,527.57 due to the agency (incorrectly) allowing an offset for the petitioner's home maintenance expenses.
4. In October, the petitioner's patient liability was determined to be \$4,508.59 as there was no basis for an offset to the patient liability for home maintenance expenses. (Agency Exhibit B)
5. On October 27, 2025, the petitioner's authorized representative called the Income Maintenance agency regarding the amount of the petitioner's patient liability. The authorized representative also informed the agency that the petitioner was expected to return home within 6 months. The agency requested verification of this in writing from the petitioner's doctor.
6. On October 31, 2025, the agency received a written statement from the petitioner's physician that he was likely to return home within 6 months. The agency adjusted the petitioner's patient liability to \$3,563.57 allow an offset for shelter expenses for 6 months. (Agency Exhibit C)
7. On November 3, 2025, the agency sent a notice to the petitioner that as of September 1, 2025, his patient liability had been adjusted to \$3,527.57 to allow an offset of the patient liability for 6 months based on the physician's letter that the petitioner was likely to return home within 6 months.

DISCUSSION

After an institutionalized person has been found eligible for Medicaid, the agency must calculate a cost of care or "patient liability." Patient liability is the amount that s/he will pay each month to partially offset the cost of nursing home services with the Medicaid program paying the balance. The liability amount is typically calculated by subtracting from the recipient's income, any health insurance premium costs, support payment costs, home maintenance costs, expenses for court-ordered guardians or protective placements, and a statutory personal needs allowance. The funds remaining after these deductions are determined to be available for payment to the nursing home by the recipient. See *Medicaid Eligibility Handbook (MA Handbook)*, § 27.7.1, available online at <https://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm#t=home.htm>; see also Wis. Stat. § 49.45(7)(a), Wis. Adm. Code § DHS 103.07(1)(d), and 42 CFR § 435.725.

The petitioner does not dispute the calculation per se, but rather is asking that his monthly and quarterly tax liabilities not be considered as part of his income or that his taxes be considered an allowable deduction to the patient liability because he cannot afford to pay both expenses.

The *MA Handbook* requires that the agency use the petitioner's gross monthly income to calculate his patient liability.

15.1.6 Countable Income

Countable income is the prospective gross monthly amount used in the eligibility determination and post-eligibility calculations.

MA Handbook §15.1.6

After determining a person's gross monthly income, the agency must then determine if there are any allowable deductions for certain qualifying out of pocket costs. These expenditures are listed in the *MA Handbook* §27.7.1:

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) [If employed] \$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).
2. For a Medicaid member in a medical institution who has a community spouse, follow the directions in Section 18.6 Spousal Impoverishment Income Allocation.
3. For a community waivers member with or without a community spouse, follow the directions in Section 28.6.4 Cost Share Amount.
4. There is no cost of care for SSI recipients.
5. For a Medicaid member who was or could have been certified through a deductible before entering the institution, there is no cost of care until the deductible period ends.

MA Handbook §27.7.1.

In this case, the petitioner moved into a skilled nursing facility in April 2025 following a surgery. He applied for Institutional Medicaid on September 4 and was approved on October 16. The petitioner had income of \$1,928 in Social Security benefits and \$3,148.68 in gross pension income. He had \$513.09 in monthly out of pocket medical costs which included his Medicare Part B premium of \$185 and his private Medicare plan premium of \$328.09. As his doctor certified that he was likely to return home within 6 months, he was able to get an offset for his mortgage (\$452.36), property taxes (\$135), homeowner's insurance (\$166.66), and electricity including heat (\$227). The petitioner was also entitled to a \$55 personal needs allowance.

At the hearing, the petitioner's representative testified that the petitioner has to pay quarterly taxes of \$550 to the IRS and \$720 to the Dept. of Revenue. He also has \$320 in taxes taken out of his pension each month. She testified that he falls short on his financial obligations every month because the taxes were not taken into account when the patient liability was determined.

The legal authorities cited above describe the only allowable deductions. The list does not include taxes; therefore, I cannot change the outcome as to the federal or state taxes being considered an allowable deduction. Additionally, the reduction from the petitioner's patient liability to maintain his home while he is in the skilled nursing facility is limited to 6 months. As such, the petitioner's patient liability is likely to return to the \$4,508.59 (or a similar figure adjusted for 2026) in March 2026, if he is still in a skilled nursing facility.

The agency is required to use the petitioner's gross income to calculate the patient liability. I have reviewed the agency's calculations and found no errors. I understand this places the petitioner in a financial hardship; however, as an administrative law judge, I have no authority to render a decision based on equity or fairness. Therefore, I must uphold the agency's decision.

CONCLUSIONS OF LAW

The agency correctly calculated the petitioner's monthly Medicaid patient liability using his gross income.

THEREFORE, it is

ORDERED

That the petitioner's 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.

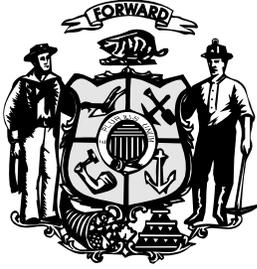
APPEAL TO COURT

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 23rd 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 23, 2026.

Polk County Department of Social Services
Division of Health Care Access and Accountability

