



STATE OF WISCONSIN
DEPARTMENT OF HEALTH & SOCIAL SERVICES

In the Matter of

DECISION

MRA-3/#71512

P R E L I M I N A R Y R E C I T A L S

Pursuant to a petition filed on June 8, 1992 under §49.45(5), Stats., to review a decision of the Barron County Dept. of Social Services relative to medical assistance benefits, a hearing was held on June 29, 1992 at Barron, Wisconsin. On July 16, 1992 this examiner wrote the petitioner asking for a list of household expenses which list was received on August 10, 1992 and has been considered in this decision.

The issue for determination is whether or not petitioner's income allocation may be increased.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Wisconsin Dept. of Health & Social Services
Division of Economic Support
1 W. Wilson Street, Room 350
P. O. Box 7851
Madison, WI 53707-7851

By: Carolyn Frogness, Economic Support Supervisor
Denise Westin, Economic Support Specialist
Barron County Dept. of Social Services
330 E. LaSalle Ave.
Barron, WI 54812

EXAMINER:

William E. Schorr, Attorney
Department of Health & Social Services

F I N D I N G S O F F A C T

1. That the petitioner, SSN 397-111-1111, is a married resident of Barron County. That her husband, is a patient at a Title XIX nursing home located in that county.

2. That an application for medical assistance benefits was made on behalf on March 9, 1992. That he was certified for medical assistance benefits effective April 1, 1992.

3. That has total monthly income of \$1,778.45 consisting of Social Security benefits of \$723 and a Wisconsin Retirement Fund pension of \$1,055.45. That petitioner has gross income from employment of \$663.38 per month.

4. That in computing contribution towards the cost of his care in the nursing home, the county agency allocated \$1,054.62 for spousal support and after the \$40 personal allowance determined that his contribution towards the cost of his care in the facility would be \$683.83.

5. That on June 8, 1992 petitioner filed a request for fair hearing seeking an increase in spousal allowance.

6. That petitioner has the following monthly expenses:

\$ 10.00	Credit card payment
34.76	Cable
9.50	Garbage pick-up
10.00	Optometrist
102.07	Northland Financial Services
214.22	Car payment
20.00	Barron Medical
24.81	Fuel
40.29	Prescription drugs
63.51	Telephone
63.85	Water, sewer and electricity
60.00	Avco Financial
50.00	Winkley Orthopedic (husband's prosthesis)
80.00	Green Lumber Home Improvement.

Annual expenses prorated as monthly expenses:

\$ 40.97	Real estate taxes and special assessments
9.83	Homeowner's insurance
21.89	Automobile insurance
133.33	State and federal income taxes on retirement benefits

\$1,019.03 Total regular monthly expenses

7. That in addition to these regular monthly expenses, petitioner's spouse owes \$5,761.87 to various medical providers for medical care provided before he became medical assistance eligible. That petitioner does not make regular payments on these bills.

8. That has net income after taxes of \$1,645.12 per month.

D I S C U S S I O N

After an institutionalized person is found eligible for medical assistance, he or she may allocate income to the community spouse. If the community spouse's income is below \$1,718; the institutionalized spouse may allocate some of his or her income to bring the community spouse's income up to \$1,718 per month. Medical Assistance Handbook, Appendix 23.5.3; Appendix 23.9-2; \$49.455(4)(c), Stats.

is a medical assistance certified institutionalized person. His use, had monthly gross income of \$663.38 at the time of certification. Because this gross monthly income did not exceed \$1,718, the county agency allocated \$1,054.62 as additional spousal support.

argues that all or part of the \$683.83 cost of care contribution currently assessed to by the county agency should be allocated to her, rather than going to the nursing home, because she cannot meet her basic and necessary living expenses without this income. This would require a determination that her MA community spouse income allocation be increased to a level above the \$1,718 limit. Current policy does allow an increase above the limit when a hearing officer determines that the community spouse needs extra income "due to exceptional circumstances resulting in financial duress." \$49.455(8)(c), Stats.

The listed monthly expenses do not include such things as vehicle maintenance, and automobile expenses, clothing needs of Mrs. and food and other necessities. The listing is just of monthly obligations. In addition to these monthly payments petitioner is responsible for payments of medical care incurred by her husband totaling \$5,761.87 and is also responsible for taxes for state and federal due on her husband's state retirement benefits which are paid on a quarterly basis. Accordingly I find

"minimum monthly maintenance needs allowance" to be \$2,218.00. As her otherwise available income is \$663.38, the household income is insufficient to meet her "minimum needs." The difference between her income otherwise available and her minimum needs is computed as follows: $\$2,218 - 663.38 = 1,554.62$. I have determined that \$500 of the \$683.83 currently contributed as cost of care contribution is necessary to be allocated to co meet her minimum maintenance needs. This household is saddled with substantial medical expenses relating to care in recent months. At this time the spouse's basic needs cannot be met with the amount of \$1,718 allocated by the county agency. This household suffers extreme financial duress; cost of care contribution and spousal income allocation requires adjustment.

is advised that her circumstances, including basic needs and allocations, may change in the future. When this period of "duress" has passed, the need for special and unique spousal income allocation will also dissipate.

C O N C L U S I O N S O F L A W

1. That the petitioner has "minimum monthly maintenance needs" of \$2,218; that she has monthly income otherwise available to her of \$663.38. That the petitioner's spouse is institutionalized and has income available, after the personal needs allowance of \$1,738.45.

2. That petitioner, is entitled to a community spouse income allowance from her husband, of \$1,554.62 from his monthly income.

3. That petitioner's husband's cost of care contribution is reduced to \$183.83.

NOW, THEREFORE, it is

O R D E R E D

That the matter be and the same is hereby remanded to the Barron County Dept. of Social Services with instructions to increase maximum community spouse income allowance to \$2,218, increase her community spouse income allocation to \$1,554.62 and reduce the spouse's cost of care contribution to \$183.83. That these actions are to be retroactive to April 1, 1992.

REQUEST FOR NEW HEARING

This is a final fair hearing decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a new hearing. You may also ask for a new hearing if you have found new evidence which would change the decision. To ask for a new hearing, send a written request to Office of Administrative Hearings, P. O. Box 7875, Madison, WI 53707-7875.

Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST."

Your request must explain what mistake the examiner made and why it is important. Or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

Your request for a new hearing must be received no later than 20 days after the date of this decision. Late requests cannot be granted. The process for asking for a new hearing is in sec. 227.49 of the state statutes. A copy of the statutes can be found at your local library or courthouse.

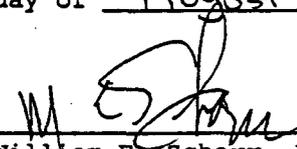
APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed no more than 30 days after the date of his hearing decision (or 30 days after a denial of rehearing, if you ask for one). The appeal must be served on the Department of Health and Social Services, P. O. Box 7850, Madison, WI 53707-7850.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for Court appeals is in sec. 227.53 of the statutes.

cc: Petitioner
Barron County
Digest

Given under my hand at the City of
Madison, Wisconsin, this 18th
day of August, 1992.



William E. Schorr, Attorney
DEPARTMENT OF HEALTH & SOCIAL SERVICES
0813kj