



State of Wisconsin
Department of Health Services

Tony Evers, Governor
Andrea Palm, Secretary

September 19, 2019

Mr. Jeffrey Renk
Senate Chief Clerk
Room B20 Southeast, State Capitol
Madison, WI 53702

Mr. Patrick Fuller
Assembly Chief Clerk
17 West Main, Room 401
Madison, WI 53703

Dear Mr. Renk and Mr. Fuller:

Wisconsin Stat. §§ 227.485(9) and 814.245(10) requires the Department of Health Services (DHS) to submit an annual report concerning decisions and resulting payments of attorney fees and related legal costs. Attorney fees and other legal costs are to be paid whenever the opposing party to an agency's Chapter 227 hearing prevails and it is determined that the agency's position was not substantially justified. The attached report reflects payments made during SFY 2019.

In addition, DHS is required to report any awards granted to the Department regarding frivolous motions brought against us. No motions of opposing parties were found to be frivolous in SFY 2019. Consequently, DHS has no awards to report.

Sincerely,

A handwritten signature in black ink, appearing to read "Andrea Palm", with a long horizontal flourish extending to the right.

Andrea Palm
Secretary-designee

Enclosure

cc: Cortney Mesdjian
Nancy Murleau

1985 WISCONSIN ACT 52
Claims Under Wis. Stat. §§ 814.245 and 227.485
Fiscal Year: July 1, 2018, to June 30, 2019

| Case Name | Case No. | Agency | Assistant Attorney General/ DHS Attorney | Opposing Counsel | Nature of Case/Claim | Costs/Fees Requested | Amount Awarded | Date of Order(s) | Appeal |
|---------------------|-----------------|---------------|---|--|--|-----------------------------|-----------------------|-------------------------|---------------|
| O'Brien, Marlin | CCWA/18 3320 | DHS | None | Attorney Mitchell Hagopian Disability Rights Wisconsin | Incorrect determination of ineligibility for Medicaid Waiver Programs (CIP-1B) | \$2,012.89 | \$2,012.89 | 8/15/2018 | No |
| Sorbo, Thomas C. | CFCP/1850 67 | DHS | None | Attorney Heather B. Poster Becker Hickey & Poster SC | Petitioner's cost share was incorrectly determined | \$8,656.06 | \$3,774.79 | 8/15/2018 | No |
| Weber, Michael | CCWA/18 4142 | DHS | None | Attorney Mitchell Hagopian Disability Rights Wisconsin | Incorrect determination of ineligibility for Medicaid Waiver Programs (CIP-1B) | \$1,551.40 | \$1,551.40 | 8/15/2018 | No |
| Brown, Margaret | CMGE/187 303 | DHS | None | Attorney Heather B. Poster Becker Hickey & Poster SC | Agency acknowledged that denial of Petitioner's application was incorrect thus determination that petitioner was eligible for Medicaid | \$2,731.34 | \$2,555.08 | 10/23/2018 | No |
| Conn, Millicent | CMDV/18 3502 | DHS | None | Attorney Ryan Long Sturgul & Long | Agency erred in its determination of a divestment | \$1,741.50 | \$1,741.50 | 10/23/2018 | No |
| McCullough, Russell | CCWA/18 4911 | DHS | None | Attorney Mitchell Hagopian Disability Rights Wisconsin | Incorrect determination of Petitioner's target group designation which led to ineligibility for Medicaid Waiver Programs (CIP-1B) | \$2,219.06 | \$2,219.06 | 10/23/2018 | No |
| Petty, Austin | CCWA/18 5666 | DHS | None | Attorney Mitchell Hagopian Disability Rights Wisconsin | Incorrect determination of ineligibility for Medicaid Waiver Programs (CIP-1B) | \$1,827.34 | \$1,827.34 | 10/23/2018 | No |
| Marshall, David | CML/1502 81 | DHS | Office of Legal Counsel | Attorney Robert J. Lightfoot, II | Petitioner appealed the Department's substantiated | \$15,166.31 | \$8,860.98 (included | 12/3/2018 | No |

| Case Name | Case No. | Agency | Assistant Attorney General/ DHS Attorney | Opposing Counsel | Nature of Case/Claim | Costs/Fees Requested | Amount Awarded | Date of Order(s) | Appeal |
|---------------------|--------------|--------|--|---|--|----------------------|--------------------|------------------|--------|
| | | | Attorney Jeanette Lytle | Reinhart, Boerner, Van Deuren, SC | finding of abuse on the Wisconsin caregiver misconduct registry | | \$311.35 interest) | | |
| Arendt, Christopher | CMGE/187689 | DHS | None | Attorney Peter Walsh Husch Blackwell, LLP | Agency incorrectly sought to terminate the Petitioner's MA due to excess assets | \$5687.50 | \$3,576.30 | 12/13/2018 | No |
| Decker, Beverly | CMDV/1887317 | DHS | None | Attorney Jeanne E. Baivier Reff, Baivier, Birmingham & Lim, S.C. | Agency erred in its determination of a divestment | \$2,992.50 | \$2,992.50 | 12/13/2018 | No |
| Huenink, Harris | CMGE/184435 | DHS | None | Attorney Melissa D. Robe Elder Law Center of WI, LLC | Agency did not correctly deny the Petitioner's MA application | \$2,351.67 | \$1,823.14 | 12/13/2018 | No |
| Marz, Andrew | CMRA/183875 | DHS | None | Attorney Christopher D'Errico Schober, Schober & Mitchell, SC | Agency incorrectly determined the petitioner's eligibility and Community Spouse Asset Share (CSAS) and the date of asset determination | \$1,785.00 | \$1,785.00 | 12/13/2018 | No |
| Siefert, Donald | CMDV/186745 | DHS | None | Attorney Christopher D'Errico Schober, Schober & Mitchell, SC | Incorrect determination of a divestment penalty period | \$1,3500.00 | \$1,350.00 | 12/13/2018 | No |
| Harbin, Marsha | CFCP/186036 | DHS | None | Attorney Dayna J. Lefebvre Becker, Hickey & Poster SC | Agency did not correctly process the Petitioner's application for community waivers. | \$7,056.67 | \$2,249.75 | 12/19/2018 | No |
| Harbin, Marsha | CFCP/186036 | DHS | None | Attorney Devin Stasek Becker, Hickey & Poster SC | Agency did not correctly process the Petitioner's application for community waivers. | \$7,056.67 | \$2,320.33 | 12/19/2018 | No |