



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]

DECISION

FCP/143166

PRELIMINARY RECITALS

Pursuant to a petition filed August 18, 2012, under Wis. Admin. Code § DHS 10.55, to review a decision by the Northern Bridges in regard to Medical Assistance, a hearing was held on October 22, 2012, at Superior, Wisconsin. A hearing scheduled for September 18, 2012, was rescheduled at the petitioner's request.

The issue for determination is whether the petitioner can challenge her CMO's decision to reduce the rate it pays to one of her providers.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703

By: Karen St. George
Northern Bridges
Hayward, WI

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Douglas County.
2. The petitioner receives medical assistance through the Northern Bridges Care Maintenance Organization.

3. Northern Bridges pays the Challenge Center to care for the petitioner. It has reduced the amount it pays the Challenge Center from \$340 to \$82 per day.

DISCUSSION

The petitioner receives Family Care Medical Assistance benefits through Northern Bridges. This health-service delivery system is authorized by a medical assistance waiver under 42 USC 1315 and is designed to increase the ability of the frail elderly and those under 65 with disabilities to live where they want, participate in community life, and make decisions regarding their own care. Family Care recipients are placed under the roof of a single private provider, called a care maintenance organization (CMO), that receives a uniform fee, called a capitation rate, for each person it serves. The CMO is responsible for ensuring that the person receives all the Medicaid and Medicare services available to him. The theory behind the program is that it will save money by providing recipients with only the services they need rather than requiring that they enroll in several programs whose services may overlap.

Each CMO signs a contract with the State of Wisconsin that sets forth exactly what services it must render. Northern Bridges' contract requires it to provide services to physically and developmentally disabled adults and frail elders who are financially eligible for medical assistance and "[f]unctionally eligible as determined via the Long-term Care Functional Screen..." *Contract Between Department of Health and Family Services and Northern Bridges*. Once a person is found eligible for the Family Care Program, Wisconsin law requires the CMO to assess his needs and create an individual service plan that meets those needs and values. This plan must provide services and support at least equal to those he would receive under the Wisconsin Medical Assistance Program and the various MA Waivers program. It can provide additional services that substitute for and augment these services if they are cost effective and meet her needs. Wis. Admin. Code, § DHS 10.41(2).

Northern Bridges has hired the Challenge Center to provide services to the petitioner. Recently, Northern Bridges reduced the amount it pays the Challenge Center from \$340 to \$82 per day. The petitioner challenges this reduction.

Northern Bridges contract with the Department defines an appeal as a request to review an "action." *Contract*, § XI.B.2. That contract specifically states that an "action" is not a "change in the rate the MCO pays a provider." *Contract*, § XI.B.1.b.2. This language is consistent with Wis. Admin. Code, § DHS 10.13(1)(b), which defines what acts taken by a MCO constitute an action, and by Wis. Admin. Code, § DHS 10.55, which defines when a person is entitled to a hearing before the Division of Hearings and Appeals. Because Northern Bridges' contract with the Department explicitly denies recipients the right to a ppeal the rate paid to providers, I must reject the petitioner's appeal.

I note to Northern Bridges that although it can determine what amount it pays its providers, it must still provide the petitioner with the services he is entitled to. It is not a defense to any future action he may bring alleging a reduction in services to contend that no provider will perform services at the price you are willing to pay. Thus if, as it appears will happen, the Challenge Center will not provide care for the petitioner at the new rate, he can challenge the alternative care arranged for him if that care is not equivalent to the care he has been receiving.

CONCLUSIONS OF LAW

The petitioner lacks standing to challenge the amount his CMO pays to his providers.

THEREFORE, it is

ORDERED

The petitioner's appeal is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge 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.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, 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 for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 7th day of December, 2012

\sMichael D. O'Brien
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 7, 2012.

Northernbridges
Office of Family Care Expansion