



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FCP/144154

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 28, 2012, under Wis. Admin. Code § DHS 10.55, to review a decision by the Community Health Partnership in regard to Medical Assistance, a hearing was held on October 24, 2012, at Eau Claire, Wisconsin.

The issue for determination is whether Community Health Partnership correctly seeks to reduce the transportation vouchers provided to the petitioner from 32 to 16 per month.

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: Sarah Dixon  
Community Health Partnership  
Eau Claire, 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 Eau Claire County.
2. The petitioner receives medical assistance benefits through Community Health Partnership.
3. The petitioner is a paraplegic who uses a wheelchair. She also has severe mental health problems.

4. Community Health Partnership has been providing the petitioner with 32 one-way transportation vouchers per month. It seeks to reduce this to 16 per month.
5. The petitioner currently receives eight vouchers a month each for swimming at Dove East, volunteering at a nursing home, going on social outings, and going to a support group for mental health issues.
6. The petitioner had been paying \$25 a week to swim at Dove East. She no longer swims there because Dove East has barred her from doing so.
7. The petitioner has stopped going to the support group for mental health.
8. The cost of the transportation covered by the vouchers is \$3 each way.
9. The petitioner goes to church on Sunday and shops on Monday.
10. The petitioner receives social security. Her payee representative gives her \$120 every two weeks for spending money and has allowed her to add the \$25 she no longer spends on swimming. Her clothing, food not covered by the \$100 a month she receives in FoodShare, hair products, and other miscellaneous items must be paid for out of this money.

### DISCUSSION

The petitioner receives Family Care Medical Assistance benefits through Community Health Partnership. 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 her. 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. Community Health Partnership's 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 Community Health Partnership*. Once a person is found eligible for the Family Care Program, Wisconsin law requires the CMO to assess her 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 she 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).

When determining whether a service is necessary, Community Health Partnership must review, among other things, the medical necessity of the service, the appropriateness of the service, the cost of the service, the extent to which less expensive alternative services are available, and whether the service is an effective and appropriate use of available services. Wis. Adm. Code, § DHS 107.02(3)(e)1.,2.,3.,6. and 7. "Medically necessary" means a medical assistance service under ch. DHS 107 that is:

- (a) Required to prevent, identify or treat a recipient's illness, injury or disability; and
- (b) Meets the following standards:
  1. Is consistent with the recipient's symptoms or with prevention, diagnosis or treatment of the recipient's illness, injury or disability;

2. Is provided consistent with standards of acceptable quality of care applicable to the type of service, the type of provider, and the setting in which the service is provided;
3. Is appropriate with regard to generally accepted standards of medical practice;
4. Is not medically contraindicated with regard to the recipient's diagnoses, the recipient's symptoms or other medically necessary services being provided to the recipient;
5. Is of proven medical value or usefulness and, consistent with s. HFS 107.035, is not experimental in nature;
6. Is not duplicative with respect to other services being provided to the recipient;
7. Is not solely for the convenience of the recipient, the recipient's family, or a provider;
8. With respect to prior authorization of a service and to other prospective coverage determinations made by the department, is cost-effective compared to an alternative medically necessary service which is reasonably accessible to the recipient; and
9. Is the most appropriate supply or level of service that can safely and effectively be provided to the recipient.

Wis. Admin. Code, § DHS 101.03(96m).

In addition, Community Health Partnership's contract with the State of Wisconsin prohibits its interdisciplinary team from denying services that are "necessary to assist the member to be as self-reliant and autonomous as possible." *Contract between Wisconsin Department of Health Services and Community Health Partnership*, pp. 61-62.

The petitioner is a paraplegic who requires specialized medical transportation. She also has severe mental illness and requires adequate social opportunities to control it. Community Health Partnership has provided her with 32 one-way transportation vouchers per month, which she has used for weekly social outings, swimming sessions at Dove East, volunteering at the nursing home, and mental health support group sessions. Community Health Partnership seeks to reduce the number of vouchers it provides because the petitioner has been barred from swimming by Dove and it claims she no longer volunteers at the nursing home or goes to her mental health support group. Community Health Partnership points out that Dove had charged her \$25 per week to swim, so she has this money available for transportation. She also receives \$120 every two weeks as spending money from her social security payee representative. The petitioner points out that any clothing, haircut, hair products, food (beyond the \$100 a month she receives in FoodShare), and other miscellaneous items come from this money. She contends that the agency understates the number of trips she makes each month, pointing out that she does in fact volunteer three hours a week at the Severson Home. She also goes to church, shops, and visits people regularly.

I understand that it is necessary for the petitioner to socialize and that she cannot do so if she does not get out of her house. She cannot drive or walk, so to be self-reliant and autonomous, she requires medical transportation. But, as noted, without the swimming, she has an additional \$25 per week to spend. Assuming there are four weeks in a month, this gives her an additional \$100 per month. Each SMV ride costs \$3. So she can take 32 rides with this additional \$100. (She cannot take 33 rides because she must make a round-trip each time she goes out.) This means that even with the number of vouchers she receives reduced from 32 to 16, she can still take 48 rides a month without using any more of the spending money allowed her by her payee representative. Because of this, I find that Community Health Partnership acted correctly when it reduced the number of vouchers it provided to her from 32 to 16 per month.

### **CONCLUSIONS OF LAW**

Community Health Partnership correctly reduced the number of vouchers provided to the petitioner from 32 to 16 because that is the amount that is medically necessary.

**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

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\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.

Community Health Partnership  
Office of Family Care Expansion