



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FCP/143930

PRELIMINARY RECITALS

Pursuant to a petition filed September 19, 2012, under Wis. Admin. Code § DHS 10.55, to review a decision by the Lakeland Care District ["District"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on December 17, 2012. At petitioner's request Hearings scheduled for November 29, 2012 and October 23, 2012 were rescheduled.

The issue for determination is whether it was correct to deny funding for structural modifications to a rental house.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] [REDACTED] (not present at December 17, 2012 Hearing)

[REDACTED]
[REDACTED]

Represented by:

[REDACTED], petitioner's husband

[REDACTED]
[REDACTED]

Respondent:

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

By: Rose Lund, Member Rights Specialist, Lakeland Care District
Patricia Hablewitz, Case Manager, Lakeland Care District
Julie Ulrich, Registered Nurse ["RN"], Lakeland Care District
Lakeland Care District
500 City Center
Oshkosh, WI 54901

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Winnebago County.
2. Petitioner is 63 years old and has diagnosis of anemia, hypertension, hypothyroidism, history of gastric ulcer, chronic venous insufficiency, glucose intolerance, GERD, osteoporosis, depression, anxiety, and ovarian cancer which is in remission; in June 2011 she had a bilateral above the knee amputation due to lower extremity ulcerations and now uses a wheelchair.
3. Petitioner's desired outcome is to live at home with her husband and adult son (they also have 4 pets); she and her husband desire a single family home with a garage and storage space.
4. Petitioner requested that FCP provide funding for structural modifications to the rental house where petitioner's husband currently lives; the requested structural modifications included widening and relocating the front door entrance, widening the kitchen and bathroom doors, and constructing an exterior ramp; the cost estimate for these structural modifications range from \$12,680 to \$19,087.55 (this does not include possible additional cost if mold/rot is found or for possible need to bring electric up to code).
5. One contractor who gave an estimate has concerns about mold and rotten wood in the house and also a concern that the structure of the house may not be sound enough to withstand the modifications.
6. Alternatives to doing the structural modifications have been identified including several apartments, townhouses, and duplexes; if petitioner wishes to stay in her current house her bed could be moved into the living room and a commode obtained.

DISCUSSION

FCP is available to eligible persons only through enrollment in a Care Management Organization ["CMO"] under contract with the Wisconsin Department of Health Services ["DHS"]. Wis. Admin. Code § DHS 10.41(1) (November 2009). A person may be eligible for FCP, but yet not entitled to enroll in a CMO. Wis. Admin. Code § DHS 10.36(1) (November 2009). A person who is found eligible for FCP but who does not meet certain conditions is not entitled to FCP benefits. Wis. Admin. Code § DHS 10.36(3) (November 2009). Such persons may pay privately for CMO services. Wis. Admin. Code §§ DHS 10.36(3) & 10.37 (November 2009).

In this case petitioner is eligible for FCP, is enrolled in a CMO, and is receiving FCP benefits. Petitioner appeals because she was denied funding for structural modifications to the rental house where her husband lives.

Services provided under FCP must be determined through individual assessment of enrollee needs and detailed in an individual service plan unique to each enrollee; services must be cost-effective. Wis. Admin. Code § DHS 10.41(2) (November 2009). A service plan for an FCP participant must be cost-effective compared to alternative services or supports that could meet the same needs and achieve similar outcomes. Wis. Admin. Code § DHS 10.44(2)(f)3. (November 2009); See also, Wis. Admin. Code § DHS 10.44(2)(f)5.c. (November 2009). In this case, as noted in the above *Findings of Fact*, several apartments, townhouses, and duplexes have been identified as alternatives to doing the modifications requested by petitioner; additionally, if petitioner wishes to stay in her current house her bed could be moved into the living room and a commode obtained. Thus, the requested home modifications are not cost-effective compared to alternative services or supports that could meet petitioner's same needs and achieve similar outcomes (petitioner's desired outcome is to live at home with her husband and adult son). This is especially true since there is concern about mold and rotten wood in the rental house and

there is also concern that the rental house may not be sound enough to withstand the modifications. It follows that funding for the requested modifications was correctly denied.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to deny funding for structural modifications to the rental house.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be and the same is hereby 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 18th day of January, 2013

\sSean P. Maloney
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 18, 2013.

Lakeland Care District
Office of Family Care Expansion