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

In the Matter of

[REDACTED]

DECISION

CWA/145046

PRELIMINARY RECITALS

Pursuant to a petition filed November 05, 2012, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support in regard to Medical Assistance, a telephonic hearing was held on January 16, 2013, at Milwaukee, Wisconsin. At the request of petitioner, a hearing set for December 18, 2012 was rescheduled.

The issue for determination is whether there is sufficient information in the hearing record to determine whether petitioner is eligible for the Family Care Program (FCP) retroactive to his June, 2012 FCP application date.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Representative:

[REDACTED] mother

Respondent:

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

By: No representative from the Milwaukee Disability Resource Center or the Family Care Program appeared for hearing
Milwaukee County Department of Family Care
901 N. 9th Street Room 307A
Milwaukee, WI 53233

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 19 year old resident of Milwaukee County who resides with his family.
2. The petitioner was diagnosed with Autism as of July 27, 2011 Wisconsin DVR evaluation.
3. During about June, 2012, the petitioner applied for The Family Care Program (FCP) through the Milwaukee County Disability Services Division of the Department of Human Services Family Care program.
4. On September 13, 2012, the Department's Milwaukee Disability Resource Center (DRC) began the processing of petitioner's Long Term Care Functional screen, and that screen was completed on November 26, 2012.
5. The petitioner's November 26, 2012 Functional screen concluded that petitioner was eligible for a Family Care Program Level of Care.
6. The hearing record indicates that neither the Milwaukee County Department of Human services nor the Milwaukee Family Care Program sent any notice to the petitioner indicating that he had or had not been found eligible for a level of care for the Family Care Program as of his FCP application.
7. No representative of the Milwaukee County Disability Resource Center (DRC) or the Family Care Program appeared at the January 16, 2013 hearing to offer any testimony or evidence regarding the status of petitioner's FCP application or to answer any questions.
8. During the January 16, 2013 hearing, petitioner's representative (mother) provided a seven (7) detailed statement regarding Petitioner's Long Term Care Needs, and why petitioner should be found eligible for the Family Care Program (not the IRIS program) retroactive to his FCP application date; and b) petitioner's representative stipulated that she was requesting that the case be remanded to the Family Care program to review her 7 page letter and issue a new notice of decision regarding petitioner's FCP eligibility retroactive to his application date.

CONCLUSIONS OF LAW

There is insufficient reliable evidence in the hearing record to determine whether the Milwaukee County Department of Family Care has properly and correctly processed the petitioner's June, 2012 Family Care application, and properly notified him of the status of his application and his eligibility date.

THEREFORE, it is

ORDERED

The matter is remanded to the Milwaukee County Department of Family Care with the following instructions: a) review the enclosed seven page statement regarding the petitioner's Long Term Care needs and arguments for why he should be eligible for the FCP; b) complete a new Functional Screen of the petitioner (including the information from the petitioner's 7 page letter) within the next two weeks; and c) issue a notice of decision to the petitioner stating in detail the status of petitioner's Family Care Program application eligibility retroactive to his initial FCP application date, within 10 days of the date of the completion of his new Functional Screen.

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 February, 2013

\sGary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

■ H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 18, 2013.

Milw Cty Dept Family Care
Bureau of Long-Term Support