



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/146586

PRELIMINARY RECITALS

Pursuant to a petition filed January 11, 2013, under Wis. Admin. Code, §DHS 10.55, to review a decision by the Western Wisconsin Cares to discontinue a Family Care Program (FCP) service, a hearing was held on March 19, 2013, by telephone. A hearing set for February 28, 2013 was rescheduled at the petitioner's request.

The issue for determination is whether the agency appropriately discontinued housing assistance as part of petitioner's FCP services.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Nikki Weinberger
Western Wisconsin Cares
1407 St. Andrew St., Suite 100
La Crosse, WI 54603

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. Petitioner has been an FCP recipient for a number of years. During that time she has received housing assistance, most recently \$100 per month to help pay her mortgage.
3. On December 4, 2012, the agency notified petitioner that it intended to discontinue the monthly housing assistance. On January 4, 2013, the agency's grievance upheld the action.

4. Petitioner's monthly budget has sufficient funds to cover the \$100 per month cost.

DISCUSSION

The Family Care program, which is supervised by the Department of Health Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10.

The Managed Care Organization (MCO) must develop an Individual Service Plan (ISP) in partnership with the client. Wis. Admin. Code, §DHS 10.44(2)(f). The ISP must reasonably and effectively address all of the client's long-term needs and outcomes to assist the client to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. While the client has input, the MCO does not have to provide all services the client desires if there are less expensive alternatives to achieve the same results. Wis. Admin. Code, §DHS 10.44(1)(f); DHS booklet, Being a Full Partner in Family Care, page 9. ISPs must be reviewed periodically. Admin. Code, §DHS 10.44(j)(5).

Wis. Stat., §46.287(2)(a)1 provides that a person may request a fair hearing to contest the reduction of services under the FCP program, among other things, directly to the Division of Hearings and Appeals. In addition, the participant can file a grievance with the MCO over any decision, omission, or action of the MCO. The grievance committee shall review and attempt to resolve the dispute. If the dispute is not resolved to the participant's satisfaction, she may then request a hearing with the Division of Hearings and Appeals.

As a first point, it appears that the housing assistance should never have been covered, or at least should have been discontinued earlier when the Department specified the types of services that could be covered. The FCP benefit package, found on the internet at dhs.wisconsin.gov/lcicare/Generalinfo/Benpackage.htm, lists a number of services that can be included in the FCP benefits, and nothing like housing assistance is included. Furthermore, the FCP Member Handbook dated August, 2011 specifically states that normal living expenses like rent or mortgage payments are not provided within the FCP benefits.

Finally, petitioner's latest budget shows that she is capable of paying the \$100 per month out of her own funds. I conclude, therefore, that the agency correctly sought to discontinue the housing assistance.

CONCLUSIONS OF LAW

The FCP agency correctly sought to discontinue monthly housing assistance because such assistance is not included in FCP benefits and because petitioner is capable of paying her mortgage without assistance.

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 22nd day of March, 2013

\sBrian C. Schneider
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 March 22, 2013.

Western Wisconsin Cares-FCP
Office of Family Care Expansion