



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/147329

PRELIMINARY RECITALS

Pursuant to a petition filed February 14, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by the Wisconsin Department of Health Services' agent in regard to Partnership Program benefits, a hearing was held on May 21, 2013, at Madison, Wisconsin. Hearings set for March 22 and April 22, 2013, were rescheduled.

The issue for determination is whether the Partnership Program correctly determined that medical transportation services need not be provided to the petitioner for social outings.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Audrey Warrington, care mgr. (telephonically)
Care Wisconsin (provider of Partnership benefits)

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Dane County.

2. The petitioner is enrolled in the Wisconsin Partnership Program (Partnership), with services provided through Care Wisconsin. A Care Wisconsin assessor performed a Long-Term Care functional Screen Report for the petitioner in early February 2013. On December 19, 2012, the petitioner requested medical transportation services to meet a hired companion for social outings. The Department's agent issued written notice to the petitioner denying this request on January 8, 2013. The petitioner then appealed to this office.
3. The petitioner, age 43, has diagnoses of diabetes insipidus and mellitus, obesity (approximately 415 pounds), fibromyalgia, disc bulge at L5-S1 with chronic pain, asthma, esophageal reflux, sleep apnea, restricted lung disease secondary to obesity, urinary stress incontinence, depression, PTSD, subjective shortness of breath, panic disorder and social anxiety disorder. Less significantly for this decision, she is also diagnosed with hypertension, hyperlipidemia, constipation, insomnia, history of frequent UTIs, anemia, migraines, cellulitis, and history of seborrheic dermatitis, vitamin B12 deficiency, chronic rhinitis, recurrent cutaneous candida in skin folds, and furuncles on back of legs. The petitioner requires physical assistance with bathing, dressing and transfers. She is able to eat independently, and sometimes needs help with toileting. She ambulates short distances with a walker, and uses a wheelchair for longer distances. The petitioner is able to fully communicate, use a telephone, does not wander, and is currently not self-injurious. The petitioner lives alone with pet cats in a city apartment.
4. The petitioner's current Partnership care plan includes a substantial number of hours of in-home supportive care to assist with self-cares and housekeeping tasks (laundry, grocery shopping, etc.). The petitioner also receives psychological counseling services multiple times weekly. She has been provided with medical transportation services to get to medical appointments. The care plan now includes time for a paid companion who can meet the somewhat reclusive petitioner in the community for social outings. The petitioner has not attempted the use of paratransit services (as opposed to the more costly medical transportation) to get to social outings.
5. The petitioner wears incontinence pads and is able to toilet independently at appointments. She uses prescription medications for pain relief. She uses oxygen, and is able to travel with oxygen tanks that will last for 9 hours.

DISCUSSION

The Wisconsin Partnership Program (Program) is a type of managed healthcare delivery system. It is designed to save money for the federal and state governments by coordinating care provision under "one roof" under a "capitated" arrangement, *i.e.*, a uniform fee per person served by the system. The Department, operating under a federal waiver, must provide for all Medicaid and Medicare covered services required by participating recipients ("members") utilizing Medicaid and Medicare certified providers. See, 42 USC § 1315; see also, 42 USC §§ 1396n(a) & (b); Wis. Stat. §49.45(32); *Medical Assistance Eligibility Handbook (Handbook)*, §30.1 *et seq.*, online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm>. The target groups for such members are the "frail elderly" and persons under 65 years of age with disabilities. See, *Wisconsin Partnership Program Waiver*, Section IV, B, effective January, 1999. The Department performs this task by delegating service delivery to a private provider known as the "partnership organization" or a "managed care organization" (MCO). In Dane County, that organization is currently Care Wisconsin.

The partnership organization functions like a health management plan and is responsible for arranging all long-term care services needed by an enrollee through the use of an interdisciplinary team comprised of a nurse practitioner, registered nurse, and social worker/social services coordinator. The partnership organization has responsibilities that are delineated in the contract with the Department of Health Services (DHS). One such responsibility is to determine the necessity and appropriateness of a requested service

to meet the member's needs. See, *2013 Family Care and Family Care Partnership Program Contract (Contract)*, §§ V-K, VII-C, & Addendum XII-C, available online at <http://dhs.wisconsin.gov/wipartnership/ProPublications.htm>. Care Wisconsin performed that function in this case.

Care Wisconsin determined that payment for paratransit trips was adequate to meet the petitioner's need to attempt social outing with a paid companion. Therefore, it did not grant the petitioner's request for medical transportation service to convey the petitioner to her social outing destinations. The cost of a Metro paratransit round-trip ticket is \$6.50. The cost of a round-trip medical transportation ticket is at least \$50 (goes up based on mileage).

The petitioner asserts that she telephoned Metro paratransit for ride information and was told that a paratransit ride may take up to 90 minutes, and that she may have to wait up to an hour for return pick-up. This information has not been documented by Metro. The petitioner further asserts that she cannot tolerate lengthy van rides due to her pain. However, there is no evidence in the record to establish that a paratransit van is more uncomfortable than medical transport. If duration of the ride is the issue, I note that the distance to one of the social ride destinations (church) is approximately five miles. Whether the petitioner takes medical transport or paratransit to church, it is still a short trip. In any event, because the petitioner has not even attempted a paratransit ride to assess her pain level in that transportation mode, I am not convinced that she will suffer higher pain using paratransit. The petitioner also has a real need for a certain level of oxygen, and a perceived need for a higher level of oxygen. She fears that she will run out of oxygen if she gets stuck with rides that take over an hour one-way. Again, given that the petitioner is going a short distance for her social outings, this appears to be an irrational fear. The same holds true for the petitioner's concern about the ride taking too long for her perform her periodic bathroom breaks.

The above paragraph is the basis for my decision. As an aside, I noted that Care Wisconsin's case note from December 7, 2012, contains the following statement: "Writer placed call to paratransit; the companies they contract with include Transit Solutions, Badger Bus, and Abbey Vans." I have paid out of my own pocket to use Abbey Vans to transport my elderly, wheelchair-bound father for a 120-mile round-trip, and was completely satisfied with the quality and cleanliness of the van, timeliness of pick-up, and courtesy and helpfulness of the driver.

My conclusion is that the MCO's denial is sustained.

CONCLUSIONS OF LAW

1. The petitioner's need for transport to social outings can be met by use of paratransit service, as opposed to medical transport services.
2. The MCO correctly denied the petitioner's December 19, 2012 request for medical transportation to social outings.

THEREFORE, it is

ORDERED

That the petition 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 14th day of June, 2013

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
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 June 14, 2013.

Care Wisconsin
Office of Family Care Expansion