



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FCP/147678

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 27, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by the Western Wisconsin Cares-Family Care Program (FC) in regard to Medical Assistance, a telephone hearing was scheduled for March 11, 2013. Following two requests to reschedule, a telephone hearing was held on May 06, 2013.

The issue for determination is whether the respondent correctly reduced the petitioner's level of FC-paid Supportive Home Care (SHC) hours.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Alice Benson  
Western Wisconsin Cares-FCP

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. The petitioner's FC services are furnished through a local care management organization (CMO), which is under contract with the FC program.

3. The petitioner, age 72, was previously granted 8 hours of SHC weekly.
4. The CMO re-determined the amount of time needed by the petitioner, and issued notice dated January 7, 2013 that, effective January 24, 2013, petitioner's SHC hours would be reduced to 6.25 per week. The CMO determined the amount of SHC time needed by utilizing a Task and Time Worksheet that lists median minutes per task. That form allocates the following weekly minutes for each client-requested task: dust/vacuum/sweep floor of living area – 30, change bedding – 10, clean bathroom sink/tub/toilet/floor – 25, clean kitchen (clean stove top, sink, counters, refrigerator, wash dishes, empty trash, and mop floor) – 40, laundry – 30, grocery shopping – 120, and meal preparation – 120. These amounts add up to 375 minutes (375 divided by 60 minutes = 6.25 hours).
5. On or after January 7, 2013, the petitioner requested a local grievance. On February 22, 2013, the CMO's grievance committee issued a decision that denied the appeal of the 6.25 SHC hours.
6. The petitioner subsequently filed a hearing request with this Division on February 27, 2013,
7. The time allotments identified in Finding #4 adequately meet the petitioner's needs at this time.

### 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. Whenever the local Family Care program decides that a person is ineligible for the program, or when the CMO denies a requested service, the client is allowed to file a local grievance. The petitioner filed a local grievance, per Wis. Admin. Code §DHS 10.53, and the original service decision was upheld in that review. The petitioner then appropriately sought a fair hearing for a further, *de novo* review of the denial decision. I conclude that the decision to decrease petitioner's FC-paid SHC hours from 8 to 6.25 was appropriate.

The petitioner disagrees with the CMO's service plan because it provides 1.75 hours less per week of supportive home care than he was previously receiving. The CMO based its 6.25-hour figure on the standardized median minutes per task worksheet, plus observations of the petitioner in 2012. No significant adverse changes to the petitioner's functional abilities were identified in the record.

The legal guidance that pertains to determining the type and quantity of daily care services that must be placed in an individualized service plan (ISP) is as follows:

#### **DHS 10.44 Standards for performance by CMOs.**

...

**(2) CASE MANAGEMENT STANDARDS.** The CMO shall provide case management services that meet all of the following standards:

...

(f) The CMO, in partnership with the enrollee, shall develop an individual service plan for each enrollee, with the full participation of the enrollee and any family members or other representatives that the enrollee wishes to participate. ... The service plan shall meet all of the following conditions:

1. *Reasonably and effectively addresses all of the long-term care needs* and utilizes all enrollee strengths and informal supports identified in the comprehensive assessment under par. (e)1.

2. *Reasonably and effectively addresses all of the enrollee's long-term care outcomes* identified in the comprehensive assessment under par. (e) 2 and assists the enrollee to be as self-reliant and autonomous as possible and desired by the enrollee.

3. *Is 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). (*emphasis added*)

In applying the foregoing standards, I conclude that the CMO was correct in calculating the appropriate number of service hours needed by the petitioner to be safe in the community. The petitioner argued for eight hours weekly. There is no evidence that his meal preparation, housekeeping and/or shopping is currently not being adequately accomplished. The petitioner is notably quite specific about how and to what extent he expects his task to be completed. I would remind him that medical assistance is meant to provide basic services to a large number of persons at a reasonable price. I note that the respondent has indicated to petitioner that, should the 6.25 hours not suffice, the respondent is willing to review its determination in the future.

I conclude that the petitioner’s residence can be cleaned to a level of normal, adequate cleanliness with the current time allotted the by the CMO. I further conclude that four hours of shopping and meal preparation time is reasonable. The current 6.25 hour allotment “reasonably and effectively addresses all of the petitioner’s long-term care needs,” per code.

**CONCLUSIONS OF LAW**

The FC CMO correctly decreased the petitioner’s SHC hours effective Janaury 24, 2013, because 6.25 hours for SHC is adequate to reasonably and effectively address the petitioner’s long-term care needs.

**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).

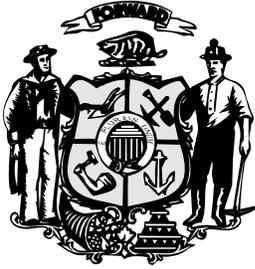
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson 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 7th day of June, 2013

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\sPeter McCombs  
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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 7, 2013.

Western Wisconsin Cares-FCP  
Office of Family Care Expansion