



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FCP/149061

PRELIMINARY RECITALS

Pursuant to a petition filed April 26, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by the Western Wisconsin Cares-FCP ["WWC"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on June 19, 2013.

The issue for determination is whether petitioner's Supportive Home Care ["SHC"] shopping hours may be reduced from 2.5 hours per week to 1 hour per week.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Susan M. Jandt, Quality Management Coordinator, Member Rights Specialist

Western Wisconsin Cares-FCP
Suite 100
1407 St. Andrew's Street
La Crosse, WI 54603

OTHER PERSONS PRESENT:

Alice Benson, WWC Quality Director
[Redacted], petitioner's caregiver
Kathy Krysenke, WWC Unit Manager
Kathy Zieja, WWC Social Worker

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. Petitioner was receiving 2.5 SHC hours per week for shopping; WWC reduced this to 1 hour per week.
3. Petitioner received a letter from WWC dated February 8, 2013 and entitled *Notice of Action* notifying her that effective February 25, 2013 her SHC hours would be reduced.
4. The reduction of petitioner's weekly SHC shopping hours was made using *Resource Allocation Decision* ["RAD"] method and was based on the fact that petitioner could do her shopping at a single store near her home using a power scooter while in the store.

DISCUSSION

The MA Family Care Program ["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 was eligible for FCP, was enrolled in a CMO, and was receiving FCP benefits. Petitioner appeals because she was notified that her SHC shopping hours would be reduced from 2.5 hours per week to 1 hour per week. Petitioner argues that she needs more time because she prefers to go to multiple stores (instead of just the store near her home) and that she walks slowly and does not like to use a power scooter in the store.

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).

It is most cost-effective to have petitioner shop at the store near her home using a power scooter. She can meet her shopping needs by doing so. The fact that petitioner may not like to do so is not a reason that additional SHC must be provided.

CONCLUSIONS OF LAW

For the reasons discussed above, WWC may reduce petitioner's SHC shopping hours from 2.5 hours per week to 1 hour per week.

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 25th day of June, 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 June 25, 2013.

Western Wisconsin Cares-FCP
Office of Family Care Expansion