



STATE OF WISCONSIN  
Division of Hearings and Appeals

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/149075

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 25, 2013, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on May 22, 2013, at Milwaukee, Wisconsin.

Petitioner's mother asked that the record be held open until May 29, 2013, to give her an opportunity to supplement the record. She submitted Petitioner's IEP evaluation. It has been marked as Exhibit 5 and entered into the record.

On May 24, 2013, ALJ Ishii contacted Petitioner's mother and obtained permission to contact staff at the Department of Health Services because the local news had carried a story indicating that payments to Petitioner's service provider, Deaconess Home Health Inc., had been suspended. Petitioner's mother gave consent. On May 29, 2013, Kelly Townsend a nurse consultant with the Department of Health Services sent an e-mail indicating that payments to Deaconess Home Health continue to be suspended. That e-mail has been marked as Exhibit 6 and entered into the record.

The issue for determination is whether Petitioner's appeal is moot.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: OIG by letter

Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309

Madison, WI 53707-0309

ADMINISTRATIVE LAW JUDGE:  
Mayumi M. Ishii  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner is four years old and has been diagnosed with autism. (Testimony of Petitioner's mother; Exhibit 3, pg. 4)
3. Between January 2013 and March 2013, Petitioner received 20 hours per week of personal care services. (Testimony of Petitioner's mother)
4. On February 21, 2013, Deaconess Home Health, Inc. submitted on Petitioner's behalf, a request for prior authorization of 24.5 hours personal care service per week and an additional 24 hours of services per week to be used as needed at a cost of \$52,900 for 53 weeks of services. (Exhibit 3, pg. 7)
5. On March 26, 2013, DHCAA sent Petitioner a letter indicating that it denied authorization for the requested services. (Exhibit 3, pgs. 31-34)
6. On March 26, 2013, DHCAA sent Outreach Health Care, Inc, which does business at the identical address as Deaconess Home Health, Inc., a notice indicated that the requested services were denied.
7. On April 19, 2013, the Department of Health Services, Office of the Inspector General, sent Deaconess Home Health, Inc., a notice indicating that it was suspending payments to them from the Wisconsin Medicaid and BadgerCare Plus Programs due to allegations of fraud. To date, payments to Deaconess Home Health continue to be suspended. (See fox6now.com website for a link to the notice and Exhibit 6)
8. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 25, 2013.

### DISCUSSION

The Department of Health Services has suspended payments to Deaconess Home Health, Inc. pending an investigation into allegations of fraud. Consequently, even if I found the requested services to be appropriate, the prior authorization for services from Deaconess Home Health could not be approved. As such, this appeal is moot.

If Petitioner's mother wants to have personal care services authorized, she will first have to have a different provider submit to the Division of Health Care Access and Accountability a new request for prior authorization. If that new request is denied, Petitioner can file a NEW request for fair hearing.

To find a new provider, Petitioner might wish to ask her son's doctors for a referral, or she might wish to contact the Aging and Disability Resource Center at 1220 West Vliet Street, Suite 300, Milwaukee WI 53255; (414) 289-6874 or (414) 289-6660.

**The new provider should make it clear in the new prior authorization request that Petitioner was formerly receiving services from Deaconess Home Health, Inc., so that the new prior authorization request is expedited.**

**CONCLUSIONS OF LAW**

Petitioner's appeal is moot, because the Department of Health Services suspended payments to Deaconess Home Health, Inc. and no prior authorization request submitted by them can be approved at this time.

**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 Milwaukee,  
Wisconsin, this 30th day of May, 2013.

---

\sMayumi M. Ishii  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
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 May 30, 2013.

Division of Health Care Access And Accountability