



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/149178

PRELIMINARY RECITALS

Pursuant to a petition filed May 3, 2013, under Wis. Admin. Code, §DHS 10.55, to review a decision by Western Wisconsin Cares to discontinue a Family Care Program (FCP) service, a hearing was held on May 23, 2013, by telephone.

The issue for determination is whether the agency correctly discontinued Supportive Home Care (SHC) services for medication management.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Laurie Jurjens
Western Wisconsin Cares
1407 St. Andrew St., Suite 100
La Crosse, WI 54603-2378

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 receives FCP services. One service he received was 1.5 hour per day SHC for medication management and set up.
3. During a meeting in March, 2013, petitioner mentioned that he did not need assistance with medication reminders, and the agency assessor agreed. Thus by a notice dated March 7, 2013, the agency informed petitioner that his SHC would be reduced to 3 hours per week from 13.5

because medications management would be discontinued (the remaining 3 hours are for grocery shopping).

4. Petitioner then filed this appeal because he did not want to lose his SHC service provider. The change was upheld by the agency's grievance committee.

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 CMO 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 CMO 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 CMO over any decision, omission, or action of the CMO. 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.

Petitioner disagrees with the reduction not because he believes he needs medication management but because his SHC provider did other things for him such as cleaning and helping him with falls. However, cleaning was not part of the provider's tasks; she apparently did so because she had developed a friendly relationship with petitioner and helped him out on her own. The problem with falls cannot be tied directly to the loss of the SHC provider; as she was only there for 1.5 hour per day the odds of petitioner falling while she was there, or even when she was on her way, were slim. Furthermore, the agency is taking other action to address the falls as it is providing Lifeline equipment.

At this point I agree with the agency's determination. Since the only service the provider was supposed to be providing was medication management, and petitioner does not need medication management, the termination of the service was warranted.

CONCLUSIONS OF LAW

The agency correctly discontinued SHC hours for medication management because petitioner no longer needed that service.

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 29th day of May, 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 May 29, 2013.

Western Wisconsin Cares-FCP
Office of Family Care Expansion