



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/149223

PRELIMINARY RECITALS

Pursuant to a petition filed May 07, 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, under the MA Family Care Program ["FCP"], WWC must pay petitioner's grandson to remove flower beds around petitioner's deck.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Karla Bright, Director, WWC
Western Wisconsin Cares-FCP
Sparta Office
Suite 1
777 South Black River Street
Sparta, Wisconsin 54656

OTHER PERSONS PRESENT:

[REDACTED], Registered Nurse, WWC
[REDACTED], Unit Manager, WWC
[REDACTED], Quality Director, WWC
[REDACTED], Quality Coordinator, WWC

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

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Monroe County.
2. On April 26, 2013 petitioner requested that WWC pay his grandson to remove flower beds around his deck.
3. By a *Notice of Action* dated April 30, 2013 WCC denied petitioner request that it pay his grandson to remove flower beds around his deck.

DISCUSSION

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 is eligible for FCP, is enrolled in a CMO, and is receiving FCP benefits. Petitioner appeals because WWC denied his request that it pay his grandson to remove flower beds around his deck.

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). The service plan must reasonably and effectively address all of long-term care needs and utilize all enrollee strengths and informal supports. Wis. Admin. Code § DHS 10.44(2)(f)1. (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).

WWC was correct to deny payment to petitioner's grandson to remove flower beds around petitioner's deck for at least 2 reasons. First, the removal of the flowers beds has not been shown to address any long-term care need of petitioner. Second, there is no known reason why petitioner could not utilize informal support to have the flower beds removed (i.e., petitioner's grandson, or some other relative or friend, could remove flower beds without being paid).

CONCLUSIONS OF LAW

For the reasons discussed above, WWC, under FCP, is not required to pay petitioner's grandson to remove flower beds around petitioner's deck.

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 2nd day of July, 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 July 2, 2013.

Western Wisconsin Cares-FCP
Office of Family Care Expansion