



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

In the Matter of

██████████
██████████
████████████████████

DECISION

FCP/149233

PRELIMINARY RECITALS

Pursuant to a petition filed May 03, 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 WWC must provide non-medical transportation to petitioner via taxi cab.

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 Jandt, Member Rights Specialist, WWC
Western Wisconsin Cares-FCP
Suite 100
1407 Saint Andrew Street
La Crosse, Wisconsin 54603-2378

OTHER PERSONS PRESENT:

Kristen Drewlow, Registered Nurse ["RN"] Care Manager, WWC
Leslie Ruft, Unit Manager, WWC
Josh Runyon, Social Worker Care Manager, WWC

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (58 years old) is a resident of La Crosse County.
2. Petitioner has diagnoses of chronic back pain and chronic knee pain; she is at a non-nursing home Level Of Care ["LOC"].
3. Petitioner previously lived in Holmen, Wisconsin which did not have city bus service; at that time WWC provide non-medical transportation to petitioner via taxi cab.
4. Petitioner now lives in La Crosse, Wisconsin which has a city bus service; petitioner lives approximately ½ block from the nearest bus stop.
5. By a letter dated April 2013 petitioner's Medical Doctor ["MD"] states that petitioner "is able to utilize public transportation. She has no contraindications to taking the bus for her transportation needs."
6. By a *Notice of Action* dated March 25, 2013 WWC notified petitioner that effective April 11, 2013 it would no longer provide non-medical transportation to her via taxi cab.
7. WWC now provides petitioner with a monthly bus pass for the La Crosse city bus service.

DISCUSSION

The 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); See also, Wis. Stat. § 46.284 (2011-12); *Medicaid Eligibility Handbook* ["MEH"] 29.2. 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. Stat. § 46.286(3) (2011-12); 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 now provides her with non-medical transportation via the city bus service (instead of via taxi cab).

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).¹ 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).

The city bus service is more cost-effective than a taxi cab. Petitioner testified that pain radiates from her lower back, she can hardly walk, and she once rode the bus and had to lie day all day and could hardly function. However, as noted in the above *Findings of Fact*, petitioner's medical doctor has determined that petitioner is able to utilize public transportation and has no contraindications to taking the bus for her transportation needs.

¹ Such services typically include, among many other things, transportation services. Wis. Admin. Code § DHS 10.41(2)Note (November 2009).

CONCLUSIONS OF LAW

For the reasons discussed above, WWC need not provide non-medical transportation to petitioner via taxi cab and may do so via the city bus service.

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 26th day of June, 2013

\sSean P. Maloney
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 26, 2013.

Western Wisconsin Cares-FCP
Office of Family Care Expansion