



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

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/149985

PRELIMINARY RECITALS

Pursuant to a petition filed June 14, 2013, under Wis. Admin. Code, §DHS 10.55, to review a decision by the Northern ES Consortium to discontinue Family Care Program (FCP) eligibility, a hearing was held on August 28, 2013, by telephone. A hearing set for July 31, 2013 was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly closed FCP and shifted petitioner to institutional Medical Assistance (MA).

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Beulah Garcia
Northern ES Consortium
10610 Main St., Suite 224
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) was a resident of Lincoln County. She died on August 14, 2103.
2. Petitioner received FCP as a Group A member because she received Supplemental Security Income (SSI). She entered the hospital on August 12, 2012.

3. A renewal was done on April 2, 2013. Petitioner still was hospitalized at the time; her SSI had ended due to being hospitalized. The agency shifted her from FCP to institutional MA with a monthly cost share of \$260. Petitioner's representative (her sister) was notified about the change by a letter dated April 15, 2013, with the change effective May 1, 2013.

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 purpose of the program is to allow elderly and disabled individuals to live in the community despite infirmities that otherwise would lead to institutionalization in a nursing home, care facility for mental disease, or hospital.

The MA Handbook, Appendix 27.1.3 provides that a person is considered institutionalized if she has resided in a hospital for more than 30 days and is expected to reside in one for at least 30 more days. If that is the case the person's eligibility for MA must be shifted to long term institutional care MA. That is what the agency did in this case. When petitioner had her review in April, 2013, she had been hospitalized for nine months and there was no expectation that she would return to her home within 30 days, and in fact she did not. I must conclude, therefore, that the agency correctly changed petitioner's status from FCP to institutional MA.

CONCLUSIONS OF LAW

Petitioner no longer was eligible for FCP when the agency reviewed her case in April, 2013 because she had been hospitalized for nine months and had no expectation of returning home within 30 days.

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 4th day of September, 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 September 4, 2013.

Wood County Human Services - WI Rapids
Office of Family Care Expansion