



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION

FCP/151915

PRELIMINARY RECITALS

Pursuant to a petition filed September 09, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by the [Redacted] Enrollment Services in regard to Medical Assistance, a telephonic hearing was held on November 06, 2013, at [Redacted], Wisconsin. At the request of petitioner, a hearing set for October 2, 2013 was rescheduled.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

Representative:

[Redacted] [Redacted], petitioner's POA
[Redacted]
[Redacted]

Respondent:

Department of Health Services
1 West Wilson Street
Madison, Wisconsin 53703
By: Chris Sobczak, coordinator
Family Care Program
[Redacted] Enrollment Services
1220 W Vliet St
[Redacted], WI 53205

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) has been a resident of a CBRF in [Redacted] County since about November 21, 2012.
2. Petitioner has been enrolled in the Family Care Program (FCP) since about November 15, 2012.

3. The petitioner owned a duplex located at [REDACTED], WI.
4. The Family Care Program sent a notice to the petitioner stating that her Family Care Program benefits would discontinue effective October 1, 2013, due allegedly to available asset (duplex) above the FCP asset eligibility limits.
5. The petitioner's duplex is in the process of foreclosure and the petitioner has no legal ability to sell, transfer, or obtain a loan against that duplex. The duplex is no longer an available asset to the petitioner.
6. After hearing the sworn testimony of petitioner's POA, FCP coordinator, Chris Sobczak, stipulated that the FCP is withdrawing its discontinuance action due to excess assets, and is reinstating the petitioner's FCP eligibility retroactive to October 1, 2013 based upon Finding of Fact #5 above.

### **CONCLUSIONS OF LAW**

The Family Care Program is withdrawing its discontinuance action due to excess assets, and is reinstating the petitioner's FCP eligibility retroactive to October 1, 2013 based upon Finding of Fact #5 above.

**THEREFORE, it is**

**ORDERED**

The matter is remanded to the Family Care Program (**Attention: FCP coordinator Chris Sobczak**) with instructions to take the necessary administrative action to: a) withdraw its discontinuance action against petitioner due to excess assets; and b) reinstate the petitioner's FCP eligibility retroactive to October 1, 2013, within 10 days of the date of this Decision.

### **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 7th day of November, 2013

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\sGary M. Wolkstein  
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 November 7, 2013.

██████████ Enrollment Services  
Office of Family Care Expansion