



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

HMO/153943

PRELIMINARY RECITALS

Pursuant to a petition filed December 04, 2013, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Health Care Access and Accountability in regard to Medical Assistance, a hearing was held on February 18, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether a decision by the Division of Hearings and Appeals now as to Petitioner's request for restoration of personal care worker hours can have a practical effect.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Elizabeth Bartlett, General Counsel
iCare
1555 N. Rivercenter Drive
Suite 206
Milwaukee, WI 53212

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.

2. Petitioner filed this appeal to contest the reduction in the hours of personal care worker services provided through the Medicaid program from 3 hours per day to ½ hour per day.
3. A hearing was conducted on February 18, 2014. Three days after the hearing iCare contacted the Division of Hearings and Appeals (DHA) to inform the DHA that Petitioner has disenrolled from the Family Care program or at least from iCare's Medicaid/Family Care program.

DISCUSSION

A matter is moot if the review sought cannot have a practical effect on the existing controversy. *See Racine v. J-T Enterp.*, 64 Wis. 2nd 691, 702; 221 N.W. 2nd 869, 875 (1974). As Petitioner has disenrolled from at least iCare there can be no practical effect of a decision for this case – past services not received cannot be provided and there are no future services where there is a disenrollment.

Further, if Petitioner has elected to enroll with a different Family Care provider there would be a new assessment as to his personal care service needs and, if he does not find those to be adequate, he may again appeal.

If I misunderstand the circumstances here Petitioner should note the rehearing instructions below.

CONCLUSIONS OF LAW

The instant appeal is moot because a decision on the merits can have no practical effect.

THEREFORE, it is **ORDERED**

This case is 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, Room 651, 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 Milwaukee,
Wisconsin, this 26th day of March, 2014

\sDavid D. Fleming
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on March 26, 2014.

iCare
Division of Health Care Access and Accountability