



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/154361

PRELIMINARY RECITALS

Pursuant to a petition filed December 26, 2013, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milw Cty Dept Family Care - MCO in regard to Medical Assistance, a hearing was held on February 19, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the family care program (FCP) erred in its termination of the taxi-ticket service for petitioner.

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: Linda Zolinski
Milw Cty Dept Family Care - MCO
901 N 9th St
Milwaukee, WI 53233

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner is a member of the FCP. She had been receiving taxi tickets which are vouchers to take taxi rides.

3. On December 18, 2013, the Department FCP agent informed petitioner that it would be terminating the taxi ticket service. The FCP began providing van service for petitioner. Van service is more cost-effective than individual on-call taxi rides provided with the voucher tickets.
4. Petitioner appealed.

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 CMO must develop an Individual Service Plan (ISP) in partnership with the client. Wis. Adm. Code § DHS 10.44(2)(f). The ISP must reasonably and effectively address all of the client's long-term needs and outcomes to assist the client to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. While the client has input, the CMO does not have to provide all services the client desires if there are less expensive alternatives to achieve the same results. Wis. Admin. Code § DHS 10.44(1)(f); DHS booklet, Being a Full Partner in Family Care, page 9. ISPs must be reviewed periodically. Adm. Code, §DHS 10.44(j)(5).

Wis. Stat., §46.287(2)(a)1 provides that a person may request a fair hearing to contest the reduction of services under the FCP program, among other things, directly to the Division of Hearings and Appeals. In addition, the participant can file a grievance with the CMO over any decision, omission, or action of the CMO. The grievance committee shall review and attempt to resolve the dispute. If the dispute is not resolved to the participant's satisfaction, she may then request a hearing with the Division of Hearings and Appeals.

The issue in this case is whether the CMO erred in its termination of the taxi ticket service to petitioner. She had previously received such vouchers allowing her to get taxi rides with certain limitations. But, at this point, the agency has already arranged for van service for petitioner. This is due to her physician's recommendation that petitioner use a scooter. The agency explained that given the van service already being in place, the taxi tickets are unnecessary.

Given the scooter use, the van service makes sense. Petitioner, however, also wants the taxi service. Petitioner's argument against the van service was only that she is required to give 24 hours' notice to the van company. Petitioner stated that she sometimes needs to go to the pharmacy in a rush to get her medication. She explained that sometimes she runs out of medication and needs to get it right away. But, this argument makes no sense. If petitioner is running out of medication then she is aware that she is running low. Presumably, she gets a certain amount of medication – 30 or 60 days. This provides great predictability for when the medication needs to be refilled. But, petitioner explained that she sometimes uses more medication than the physician prescribes, and that she then needs to refill the prescription once she is permitted the refill by the pharmacy. If she gets it early then the medication will not be covered by her insurer. But, the date that the medication can be refilled is undoubtedly also predictable. Petitioner also argued that because she has more than one medication her refills are staggered in date of refill. Nonetheless, the refill cycle is likely predictable. Perhaps petitioner should seek assistance from her pharmacist. Alternatively, petitioner could discuss her use of more medication than is prescribed by her physician. Perhaps her physician has a solution such as a higher dosage, or education as to why petitioner's overuse is discouraged.

Petitioner also argued that sometimes it takes the van up to an hour or two to pick her up after she gets dropped off at a site. I realize this might not be as convenient as a personal driver or a taxi that waits for you. But, as this is a public benefit provided to petitioner by her choice and with limited resources, the

van seems like a perfectly adequate option. I recognize it is not ideal, but the FCP program does not need to provide everything that a member desires. In this case, the FCP has offered workable solutions.

CONCLUSIONS OF LAW

The Department did not err in its denial of the taxi ticket service.

THEREFORE, it is

ORDERED

That this matter 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 Madison,
Wisconsin, this 7th day of March, 2014

\sJohn P. Tedesco
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 March 7, 2014.

Milw Cty Dept Family Care - MCO
Office of Family Care Expansion