



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FCP/154420

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed December 27, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to discontinue Family Care, a hearing was held on January 21, 2014, by telephone.

The issue for determination is whether the agency correctly sought to close Family Care eligibility because petitioner has been residing in a nursing home.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Bryan Williams  
Milwaukee Enrollment Services  
1220 W. Vliet St.  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner has been eligible for the Family Care Program (FCP). In September, 2013, he was hospitalized, and since then he has been either in a hospital or a nursing home. Currently he is in a nursing home, although his daughter is attempting to get him back home.
3. By a notice dated December 18, 2013, the agency informed petitioner that the FCP would end February 1, 2014 because he resides in an institution.

### **DISCUSSION**

As a first point this appeal was miscoded as being about Medicare Premium Assistance. The letter from petitioner's daughter was not clear, but it actually concerned the proposed discontinuance of the FCP. I thus have changed the case code in the caption of this decision from "MQB" to "FCP" to reflect the correct program.

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 essential point of the FCP is to provide care and services to allow individuals who otherwise would be institutionalized to remain in the community. It follows that if a person actually is institutionalized that the FCP would not be an appropriate program for the person.

Petitioner has been either in a hospital or nursing home continuously since September, 2013. By the time the agency sent the notice to discontinue the program petitioner's placement in those facilities was more than a temporary thing. I thus have no problem with the agency closing FCP. As of the hearing date petitioner remained in the nursing home.

Petitioner's daughter is attempting to get him back home and a court date is set for later in January to get her appointed guardian. However, the agency cannot assume that petitioner will return home. Thus the agency action was correct. If petitioner returns home his daughter can contact his FCP case manager to get the program running again. As long as this occurs within the month of January or February, 2014, FCP can reopen without the need for a new application process to occur.

### **CONCLUSIONS OF LAW**

The agency correctly closed FCP because petitioner was institutionalized for three months straight.

**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, 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 22nd day of January, 2014

---

\sBrian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 22, 2014.

Milwaukee Enrollment Services  
Office of Family Care Expansion