



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/155327

PRELIMINARY RECITALS

Pursuant to a petition filed February 5, 2014, under Wis. Admin. Code, §HA 3.03, to review a decision by the Rock County Dept. of Social Services to discontinue Medical Assistance (MA) waiver services, a hearing was held on March 20, 2014, by telephone.

The issue for determination is whether petitioner continues to meet the level of care requirement for an MA waiver program.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jennifer Anselmi
Rock County Dept. of Social Services
1900 Center Avenue
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner has been eligible for the Rock County agency's Nursing Home Diversion Program, one of the agency's MA waiver programs. Petitioner was due for an annual reassessment in January, 2014.

3. A functional screen was done. It was determined that petitioner no longer meets the level of care requirement. By a notice dated January 29, 2014, the agency informed petitioner that her program eligibility would end February 9, 2014. Services have continued pending this appeal.
4. Petitioner is 75 years old with a medical history of heart failure, arthritis, COPD, kidney disease, back pain, and depression. Currently her major concern is with balance; she has a history of falling.
5. Petitioner is independent in her activities of daily living, including bathing, dressing, toileting, and mobility. She is able to prepare her own meals. She primarily needs help with grocery shopping, cleaning, and laundry.

DISCUSSION

Petitioner was eligible for an “MA waiver” program. The policies for the programs are set forth in the department’s MA Waivers Manual, found at www.dhs.wisconsin.gov/ltc_cop/waivermanual/index.htm.

In order to receive services an individual must qualify for care reimbursable by the MA program in a skilled nursing facility or an intermediate care facility. Medicaid (MA) Home & Community-Based Waivers Manual Ch. II, p. II-13. The Department has developed a computerized functional assessment screening system. The system relies upon a face-to-face interview with a quality assurance screener who has at least a bachelor of science degree in a health or human services related field, with at least one year of experience working with the target populations (or, if not, an individual otherwise specifically approved by the Department based upon like combination of education and experience). The screener asks the applicant, or a recipient at a periodic review, questions about her medical conditions, needs, cares, skills, activities of daily living, and utilization of professional medical providers to meet these needs. The assessor then submits the Functional Screen Report for the person to the Department’s Division of Disability and Elder Services. The Department enters the Long Term Functional Screen data into a computer program to see if the person meets any of the required levels of care.

If the assessor enters information into the functional screen correctly, then it is assumed that the computer will accurately determine the level of care. In this case, I find that the screen was completed correctly. The screener showed that petitioner was independent in activities of daily living but noted her use of a grab bar in the shower and her use of a walker. The instrumental activities of daily living page also was compiled correctly. It noted petitioner’s need for assistance with the various activities.

Petitioner’s primary needs are with incidental services such as laundry, cleaning, and shopping. The need for assistance in just those areas would not require nursing home placement. I must conclude, therefore, that the functional screen findings were correct and that petitioner is not eligible for the MA waiver program. I urge the agency to assist petitioner in finding alternative funding for the supportive home care services she needs.

CONCLUSIONS OF LAW

Petitioner does not meet the level of care necessary for MA waiver funding.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 31st day of March, 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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 31, 2014.

Rock County Department of Social Services
Bureau of Long-Term Support