



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/156492

PRELIMINARY RECITALS

Pursuant to a petition filed March 28, 2014, under Wis. Admin. Code, §DHS 10.55, to review a decision by Care Wisconsin to discontinue Medicaid Partnership Program (MPP) eligibility, a hearing was held on May 14, 2014, by telephone.

The issue for determination is whether petitioner continues to meet the level of care required for MPP eligibility.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Gina Bierman
Care Wisconsin
2802 International Lane
Madison, WI 53704-3124

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner is disabled and has been eligible for the MPP program. An annual reassessment was done in March, 2014, and following the reassessment the agency informed petitioner that he no longer met the functional eligibility standard for the program. Accordingly, his services would end April 2, 2014. See 3/18/14 notice; benefits were continued pending this appeal.

3. Petitioner has joint disease in both knees, and his vision is significantly impaired (6/200 in his right eye, and 20/80 in his left eye).
4. Petitioner is independent in activities of daily living and in most instrumental activities of daily living. He needs assistance with transportation, laundry, and chores.

DISCUSSION

The Wisconsin Partnership Program is a demonstration project authorized by the United States Department of Health & Human Services under a waiver of the Social Security Act. See 42 U.S.C. §§ 1396n(a), (b). The project is designed to save money for the federal and state governments by integrating long-term care and acute care services under one roof. In essence, the Department of Health Services will pre-pay a uniform fee per person served by the WPP organization, and the organization will provide all Medicaid and Medicare covered medical services each individual is determined to need. It is also designed to maximize the ability of enrolled members to live in a setting of their own choice, to participate in community life, and to participate in making decisions regarding their own care.

The department, operating under a federal waiver, must provide or arrange for all Medicaid *and* Medicare covered services required by participating recipients, i.e., “members,” including nursing facility, primary, acute, and long-term care services utilizing Medicaid and Medicare certified providers. See 42 U.S.C. §1315. The target group for such members is the “frail elderly” and persons “under 65 years of age with disabilities”. Wisconsin Partnership Program Waiver, Section IV, B, effective January, 1999. The department performs this task by delegating the responsibility of service delivery to a private provider known as the “partnership organization.” In Dane County that organization currently is Care Wisconsin.

The WPP is a sub-program of Medical Assistance (MA). MA and WPP reimburse the partnership organization for the costs of otherwise eligible persons who require one of several defined “levels of [nursing] care.” The department has made efforts to improve the state-wide efficacy of level of care assessments by designing and implementing 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), who has been trained and met all requirements to do so by completing a department sanctioned web-based training program, and has experience working with long term care consumers.

The screener asks the applicant, or a recipient at a periodic review, a multitude of questions about his or her medical conditions, needs, cares, skills, activities of daily living, and utilization of professional medical providers to meet these needs. The screener then submits the “Functional Screen Report” for the applicant to the department’s Division of Disability and Elder Services. The department then reviews the Long Term Functional Screen data (or “tool”) by computer programming to see if the applicant meets any of the nursing levels of care, as outlined above in detail.

The department’s computer program in this case found that petitioner did not meet a level of care, based upon the entries on the form. I agree with that conclusion. It is clear that petitioner has a number of ailments and medical conditions. The level of care determination is not an assessment of a person’s ailments, however. It is an assessment of how much skilled care the person required. It is true that petitioner needs assistance with cleaning, transportation, and laundry, but none of those are skilled care services. Petitioner is able to bath, dress, eat, and toilet independently. He generally is mobile in his home. He is able to prepare simple meals, manage his medications, and manage his finances.

Obviously a question arises as to how petitioner could have met the level of care in the past but not now. When petitioner applied for MPP he was virtually blind and needed assistance with activities of daily living. He since then has had eye surgeries that improved his vision and tremendously lessened his need for assistance. He does have bad days when his legs are bad, but they are not so bad that he requires regular assistance.

CONCLUSIONS OF LAW

The agency correctly determined that petitioner no longer meets the level of care requirements for MPP eligibility.

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 19th day of May, 2014

 \sBrian C. Schneider
 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 May 19, 2014.

Care Wisconsin First, Inc
Office of Family Care Expansion