FH
[redacted]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[redacted]

AMENDED DECISION

FCP/156658

PRELIMINARY RECITALS

Pursuant to a petition filed April 7, 2014, under Wis. Admin. Code, §DHS 10.55, to review a decision by the Community Care of Central Wisconsin to discontinue the Family Care Program (FCP) and Medical Assistance (MA), a hearing was held on April 30, 2014, by telephone.

The amended decision is sent to correct the retroactive date of the remand. Changes are in bold.

The issue for determination is whether petitioner met the functional eligibility requirements when her reassessment was done.

PARTIES IN INTEREST:
Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Penny Bartelt
Community Care of Central Wisconsin
3349 Church St., Suite 1
Stevens Point, WI 54481

ADMINISTRATIVE LAW JUDGE:
Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #[redacted]) is a resident of Marathon County.
2. Petitioner has been eligible for FCP since July, 2012. She has a reassessment done in March, 2014. Following the reassessment petitioner was found to no longer meet the functional

requirements for eligibility, and by a notice dated March 24, 2014, she was informed that the program would end Apri1 1, 2014.

3. There was an error on the functional assessment. Petitioner was noted to be independent with medications, but she actually still requires assistance.

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.

Wis. Admin. Code, §DHS 10.33(2) provides that an FCP applicant must have a functional capacity level of comprehensive or intermediate; I note here that Wis. Stat., §46.286, uses the terms "nursing home" and "non-nursing home" levels just as the agency in this case. If the person meets the comprehensive (nursing home) level, she is eligible for full services through a care management organization (CMO), including Medical Assistance (MA). Wis. Admin. Code, §DHS 10.36(1)(a). If the person meets the intermediate (non-nursing home) level, she is eligible for full services only if she is in need of adult protective services, she is financially eligible for MA, or she is grandfathered as described in §DHS 10.33(3). Wis. Admin. Code, §DHS 10.36(1)(b). A person eligible under the non-nursing home level is eligible for less FCP services.

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 his or 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 when the assessment was done it was entered that petitioner was independent with medication management. At that moment petitioner's FCP team was attempting to enhance petitioner's independence by allowing her to manage more of her activities independently. However, soon after the assessment was done petitioner overdosed on her medications with subsequent hospitalization. Thus it is evident that although the answer to the question about medications was optimistic, it is clear that petitioner still needs assistance with medication management.

Ms. Bartelt testified that when the screen is re-run with the answer changed for medication management, petitioner again meets the functional eligibility requirement. I thus will order that screen re-rum retroactive to the **March 1, 2014**, cut off.

CONCLUSIONS OF LAW

Petitioner still meets the functional eligibility requirement for FCP.

THEREFORE, it is **ORDERED**

That the matter be remanded to the agency with instructions to re-run petitioner's functional screen with the change to her need for assistance with medication management, retroactive to **March 1, 2014**, and to process the eligibility result from the re-screen. The agency shall do so within 10 days of this decision.

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 13th day of May, 2014

_____

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

State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on May 1, 2014.

Community Care of Central Wisconsin
Office of Family Care Expansion

State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on May 13, 2014.

Community Care of Central Wisconsin
Office of Family Care Expansion