



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/157044

PRELIMINARY RECITALS

Pursuant to a petition filed April 22, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Western Wisconsin Cares [“WWC”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on September 16, 2014. At petitioner’s request Hearings scheduled for August 4, 2014 and June 12, 2014 were rescheduled.

The issue for determination is whether, under the MA Family Care Program [“FCP”], WWC must pay for up to an additional 4 round trip non-medical cab rides per week for petitioner.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner's Representative:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

BY: Max Heckman, Social Worker, WWC
Western Wisconsin Cares
Suite 1
777 South Black River Street
P.O. Box 254
Sparta, Wisconsin 54656

ADMINISTRATIVE LAW JUDGE:
 Sean P. Maloney
 Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 63 years old) is a resident of La Crosse County, Wisconsin.
2. Petitioner has diagnosis of schizoaffective disorder, bipolar type, which is severe; he has significant panic attacks.
3. Petitioner lives in a small apartment (approximately 15 feet by 10 feet).
4. WWC currently funds 3 round trip non-medical cab rides per week for petitioner.
5. WWC funds medical transport as needed for petitioner (averaging 1 or more times per week).
6. Petitioner has a motorized wheelchair which allows him to leave his apartment by himself in good weather.
7. Petitioner requested that WWC fund up to an additional 2 round trip non-medical cab rides per week.
8. By a *Notice of Action* dated March 18, 2014 WWC denied petitioner's request that it fund up to an additional 2 round trip non-medical cab rides per week.
9. At the September 16, 2014 Hearing in this matter petitioner amended his request from 2 to 4 additional round trip non-medical cab rides per week.

DISCUSSION

FCP is available to eligible persons only through enrollment in a Care Management Organization ["CMO"] under contract with the Wisconsin Department of Health Services ["DHS"]. Wis. Admin. Code § DHS 10.41(1) (December 2013). A person may be eligible for FCP, but yet not entitled to enroll in a CMO. Wis. Admin. Code § DHS 10.36(1) (December 2013). A person who is found eligible for FCP but who does not meet certain conditions is not entitled to FCP benefits. Wis. Admin. Code § DHS 10.36(3) (December 2013). Such persons may pay privately for CMO services. Wis. Admin. Code §§ DHS 10.36(3) & 10.37 (December 2013).

In this case petitioner is eligible for FCP, is enrolled in a CMO, and is receiving FCP benefits. Petitioner appeals because WWC denied his request that it pay for additional round trip non-medical cab rides.

Services provided under FCP must be determined through individual assessment of enrollee needs and detailed in an individual service plan unique to each enrollee; services must be cost-effective. Wis. Admin. Code § DHS 10.41(2) (December 2013). The service plan must reasonably and effectively address all of long-term care needs and utilize all enrollee strengths and informal supports. Wis. Admin. Code § DHS 10.44(2)(f)1. (December 2013). A service plan for an FCP participant must be cost-effective compared to alternative services or supports that could meet the same needs and achieve similar outcomes. Wis. Admin. Code § DHS 10.44(2)(f)3. (December 2013); See also, Wis. Admin. Code § DHS 10.44(2)(f)5.c. (December 2013).

In this case petitioner claims that due to extreme mental health issues he must get outside of his apartment everyday and requires non-medical cab rides to do so. In particular, petitioner testified that he must get out of his apartment everyday or he goes "crazy" and has sudden, violent, and overwhelming attacks and

must call 911. He claims to have “a very rare, undiagnosed, neuropsychiatric disorder possibly induced from totally working, and living in the same small quarters for years.” He states: “after about 28 to 36 hours of inability to leave my apartment: my vision blurs; I experience pressure in the skull; I experience a profound desire to leave the area (which monotonically increases); I am overcome by fear; I burn like getting hit with a continuous electric voltage; and I always call 911!” He also states: “Basically, it feels like WW III and burning to death while being electrocuted on the cross.”

The only medical documentation in the record of this matter are 2 letters: one from petitioner’s psychiatrist dated May 7, 2014; and, one from petitioner’s psychotherapist that is not dated. The one from petitioner’s psychiatrist states that petitioner has significant panic attacks and “would treat himself for his panic with going to different places, as he found that was very helpful. Now without a car, without transportation, without anybody to take him, he has gotten worse with respect to his panic attacks.” The letter from petitioner’s psychiatrist states that petitioner “is requesting additional transportation, which I support. . . . [Petitioner] is requesting an additional 4 round trip rides a week which he tells me is the minimum of what he needs to manage his symptoms.”

The medical documentation in the record of this matter is not sufficient to justify the additional 4 round trip rides per week requested by petitioner. First, the documentation does not prescribe getting out of the apartment as treatment for petitioner’s panic attacks. Second, even if the documentation did make such a prescription, it does not specify how often petitioner needs to get out of his apartment. The psychiatrist states that petitioner currently is without transportation (which is not correct) and the psychotherapist only repeats what petitioner told her he was requesting as a minimum (an additional 4 round trips). Petitioner currently gets out 3 times per week with non-medical transport, an average of 1 or more times per week with medical transport, and also with his power wheelchair. The medical documentation does not state that this is not enough. Third, the medical documentation does not support petitioner’s description of the extreme severity of his panic attacks.

CONCLUSIONS OF LAW

For the reasons discussed above, WWC, under FCP, is not required pay for up to an additional 4 round trip non-medical cab trips per week for petitioner.

NOW, 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 5th day of November, 2014

\sSean P. Maloney
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 November 5, 2014.

Western Wisconsin Cares-FCP
Office of Family Care Expansion
Attorney [REDACTED] [REDACTED]