



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

MPA/157071

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 23, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Division of Health Care Access and Accountability, now known as the Office of Inspector General (OIG) in regard to Medical Assistance (MA), a telephonic hearing was held on June 03, 2014.

The issue for determination is whether the OIG correctly denied the prior authorization (PA) request for personal care worker (PCW) hours submitted by First Choice Health Care LLC.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

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Respondent:

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

By: written submittal of: Cindy Zander, RN  
Division of Health Care Access and Accountability  
1 West Wilson Street, Room 272  
P.O. Box 309  
Madison, WI 53707-0309

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. On February 26, 2014 First Choice Health Care LLC submitted a PA request for PCW hours on petitioner's behalf.
3. On March 24, 2014 the OIG denied the PA request because it did not find the services to be medically necessary as supported by the documentation submitted with the PA request.

### **DISCUSSION**

The Division of Hearings and Appeals' administrative law judges lack the powers of a court of equity. Rather, such administrative judges must limit themselves to the remedies provided within the law, comprised of statutes and rules. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). The petitioner testified at hearing that her PCW provider here – First Choice – has gone out of business. Thus, even if all the documentation that would have been necessary here to substantiate the medical necessity of the PCW services was here, there is no adequate remedy at law by which I could award PCW hours *for this provider*. I lack the authority to remedy this denial. The issue is moot.

Petitioner testified that she had found another provider and believed that a new PA would be or had been submitted. If the new PA is again denied or modified, petitioner may appeal that action.

### **CONCLUSIONS OF LAW**

The matter is moot.

**THEREFORE, it is**

**ORDERED**

The petition for review herein 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 Milwaukee,  
Wisconsin, this 1st day of July, 2014

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\sKelly Cochrane  
Administrative Law Judge  
Division of Hearings and Appeals



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

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5005 University Avenue  
Madison, WI 53705-5400

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

Division of Health Care Access and Accountability