



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/157512

PRELIMINARY RECITALS

Pursuant to a petition filed May 7, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Portage County Department of Human Services [“County”] in regard to Medical Assistance [“MA”], a Hearing was held via telephone on July 2, 2014.

The issue for determination is whether it was correct to deny petitioner’s April 2014 application for the MA Family Care Program [“FCP”].

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] [REDACTED] (not present at July 2,
2014 Hearing)
c/o [REDACTED]
[REDACTED]
[REDACTED]

Represented by:

[REDACTED] [REDACTED], petitioner’s daughter & Power
of attorney [“POA”]
[REDACTED]
[REDACTED]

Respondent:

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

By: Tammy Porter, ESS
Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 95 years old) is a resident of Portage County, Wisconsin.
2. On November 17, 2013 petitioner's wife passed away following an automobile accident.
3. Petitioner's wife had a life insurance policy in the amount of \$12,500 with petitioner being the beneficiary.
4. Petitioner received the proceeds of his wife's \$12,500 life insurance policy and this put him over the \$2,000 FCP asset limit for April 2014 and for the 3 prior months (he was over the FCP asset limit even after the funeral and burial expenses of his wife were paid).
5. By a letter notice dated May 1, 2014 entitled *About Your Benefits* the County denied petitioner's April 2014 application for FCP because he was over the FCP asset limit.

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).

The FCP asset limit for 1 person is \$2,000.00 (the same as the MA asset limit for 1 person). Wis. Stat. § 46.286(1)(b)2m.a. (2011-12); Wis. Admin. Code § DHS 10.36(1)(b)2. (December 2013) & Wis. Admin. Code § DHS 10.34(2) (December 2013); See also, Wis. Stat. § 49.47(4)(b)3g.e. (2011-12); see also, Wis. Admin. Code § DHS 103.04(2) (December 2008) & *Medicaid Eligibility Handbook* ["MEH"] Chapter 16, 29.3.2 & 39.4.1. Petitioner was over the FCP asset limit at the time he applied (and for the 3 months before he applied). Petitioner admits this. Therefore, it was correct to deny petitioner's April 2014 application for FCP.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to deny petitioner's April 2014 application for FCP.

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 9th day of July, 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 July 9, 2014.

Portage County Department of Human Services
Office of Family Care Expansion