



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/158691

PRELIMINARY RECITALS

Pursuant to a petition filed June 27, 2014, under Wis. Stat. § 49.45(5) (2011-12), to review a decision by Care Wisconsin in regard to Medical Assistance ["MA"], a hearing was held via telephone on November 12, 2014. At petitioner's request Hearings scheduled for October 7, 2014 and August 27, 2014 were rescheduled.

The issue for determination is whether petitioner meets the Nursing Home Level of Care ["LOC"] eligibility requirement for the Wisconsin MA Partnership program.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Gina Bierman, Registered Nurse ["RN"], Long Term Care Functional Screen
Specialist

Care Wisconsin
2802 International Lane
Madison, WI 53704-3124

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 61 years old) is a resident of Dane County, Wisconsin.
2. Petitioner has multi co-morbidities; some of his diagnoses are diabetes mellitus with complications, coronary artery disease, peripheral vascular disease, and diabetic neuropathy; he has a diabetic foot ulcer; he has chronic pain (he has 2 stents in his left leg).
3. Petitioner can independently wash himself, prepare meals, eat, be mobile around his home (although he uses a cane at times and uses the walls and furniture for stability; he does not fall), transfer, toilet (he is not incontinent), manage medications, manage money, do light housekeeping, do laundry, and, use the telephone; he does not show any signs of memory loss or cognitive/memory impairment; he does not wander, is not self injurious or offensive/violent, and his mental health is stable; he needs help carrying groceries into his home; he does not have a car or a current driver's license.
4. A *Long Term Care Functional Screen Report* completed in June 2014 concluded that petitioner had a non-nursing home LOC.
5. A second *Long Term Care Functional Screen Report* completed in October 2014 also concluded that petitioner had a non-nursing home LOC.

DISCUSSION

The Wisconsin MA Partnership program is a comprehensive waiver program integrating health and long term support services for people who are elderly or disabled. Services are delivered in the participant's home or a setting of his or her choice. Through team based care management, the participant, his or her physician, nurses, and social workers together develop a care plan and coordinate all service delivery. *Medicaid Eligibility Handbook* ["MEH"] 30.1; See also, Wis. Stat. § 49.45(32) (2011-12).

An individual must be found functionally eligible at the Nursing Home LOC to be eligible for Partnership. MEH 30.1 & 30.4. There are several ways to meet the Nursing Home LOC depending on a person's ability to perform Activities of Daily Living ["ADLs"] and Instrumental ADLs ["IADLs"]. Wis. Admin. Code § 10.33(2)(c) (December 2013); See also, Wis. Stat. § 46.286(1)(a)1m. (2011-12).

As reflected in the above *Findings of Fact*, petitioner does not meet the Nursing Home LOC. He can perform almost all ADLs and IADLS independently. At the November 12, 2014 Hearing in this matter petitioner testified that he is "pretty much taking care of myself" and "the screen [*Long Term Care Functional Screen Report*] was accurate because I tried to answer as honestly as possible."

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner does not meet the Nursing Home LOC eligibility requirement for the Wisconsin MA Partnership program.

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.

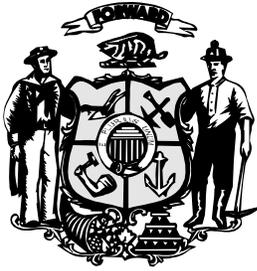
APPEAL TO COURT

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 17th 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 17, 2014.

Care Wisconsin First, Inc
Office of Family Care Expansion