



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FCP/160075

PRELIMINARY RECITALS

Pursuant to a petition filed August 21, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Care Wisconsin First, Inc in regard to Medical Assistance, a hearing was held on October 06, 2014, at Madison, Wisconsin.

The issue for determination is whether the agency erred in its denial of a power wheelchair for petitioner.

There appeared at that time and place 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: Megan Fecht

Care Wisconsin First, Inc
2802 International Lane
Madison, WI 53704-3124

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner has a manual wheelchair which she uses outside her home
3. Petitioner requested the FCP provide a power wheelchair.
4. The FCP denied the request on 7/8/14.

5. Petitioner appealed.

DISCUSSION

The Family Care program (FC), 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 Wis. Stat. §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter DHS 10.

In the FCP, the CMO (a/k/a MCO) must develop an Individual Service Plan (ISP) in partnership with the client. Wis. Adm. Code, §DHS 10.44(2)(f). The ISP must reasonably and effectively address all of the client's long-term needs and outcomes to assist the client to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. While the client has input, the CMO does not have to provide all services the client desires if there are less expensive alternatives to achieve the same results. Wis. Adm. Code, §DHS 10.44(1)(f).

Whenever the local FCP decides that a person is ineligible for the program, or when the CMO denies a requested service, the client is allowed to file a local grievance. The Petitioner did so here, and the original service denial was upheld in that review. The Petitioner then appropriately sought a fair hearing for a further, de novo review of the denial decision.

The issue in this case is whether the CMO acted appropriately in denying Petitioner's request for the purchase of the power wheelchair. Petitioner would like the use of the power chair to go out and shop and do things out of her home. The agency argues that petitioner does need the chair inside her home and uses a manual wheelchair outside. The agency states its reasonable concern that petitioner will lose strength and decline if she get a power chair and starts using a power chair. Petitioner concedes that even her physician is opposed to her obtaining a power wheelchair.

Petitioner's argument was unpersuasive. Petitioner provided no objective evidence in support of her claimed need for a power wheelchair.

CONCLUSIONS OF LAW

The agency did not err in its denial of the power wheelchair.

THEREFORE, it is **ORDERED**

That this appeal is 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 30th day of October, 2014

\sJohn P. Tedesco
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 October 30, 2014.

Care Wisconsin First, Inc
Office of Family Care Expansion