



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted]
Redact
[Redacted]

DECISION

FCP/160586

PRELIMINARY RECITALS

Pursuant to a petition filed September 15, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Care Wisconsin First, Inc. ["Care WI"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 26, 2014. At petitioner's request a Hearing scheduled for October 28, 2014 was rescheduled.

The issue for determination is whether it was correct to reduce petitioner's paid MA Family Care Program ["FCP"] Supportive Home Care ["SHC"] hours from 5 hours per week to 1½ hours per week.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

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

BY: *Redact*, Care Manager
Care Wisconsin First, Inc.
2802 International Lane
Madison, WI 53704-3124

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (64 years old) is a resident of La Crosse County, Wisconsin.

2. Petitioner has diagnoses of rheumatoid arthritis, osteoarthritis, fibromyalgia, anxiety, and depression; she has hoarding behaviors.
3. Petitioner lives in an apartment and was at risk of eviction due to the clutter in her apartment; beginning in December 2013 petitioner was allowed 5 hours of SHC per week to clean and organize her apartment so it would pass inspection; she has passed the inspection and her apartment is looking better.
4. Care WI sent petitioner a *Notice of Action* letter dated July 24, 2014 notifying her that her SHC hours would be reduced from 5 hours per week to 1½ hours 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 she was notified that her that her SHC hours would be reduced from 5 hours per week to 1½ hours per week.

This matter must be decided by the preponderance of the credible evidence. Wis. Admin. Code § HA 3.09(4) (September 2001). The preponderance of the credible evidence in the record of this matter is that petitioner has passed the inspection, her apartment is looking better, and 1½ SHC hours per week is adequate.

Petitioner states that she has a storage locker she needs help cleansing and organizing. However, while the FCP program may pay for cleaning and organizing a member's living space, it does not do so for storage lockers.

Petitioner's advocate argued that the condition of her apartment now is such that it may not pass inspection. First, FCP staff has been to petitioner's apartment and report that it is clean and safe. Second, petitioner's therapist states that in regard to hoarding petitioner "does not describe anxiety in regard to this, but more of a lack of motivation." Petitioner needs to continually keep her apartment clean and organized enough to pass inspection. She cannot allow it to become so unclean and cluttered that it will not pass inspection. If she does so she should not expect FCP to again pay to again have it cleaned and organized for her.

CONCLUSIONS OF LAW

For the reasons discussed above, it was correct to reduce petitioner's SHC hours from 5 hours per week to 1½ hours per week.

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 December, 2014

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 5, 2014.

Care Wisconsin First, Inc
Office of Family Care Expansion