



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted]
Redact
[Redacted]

DECISION

CWA/161666

PRELIMINARY RECITALS

Pursuant to a petition filed October 30, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Rock County Department of Social Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on December 11, 2014.

The issue for determination is whether petitioner is eligible for MA Community Waiver services.

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: Heather Campbell, Social Worker
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]; 84 years old) is a resident of Rock County, Wisconsin.

2. Petitioner was receiving MA Waiver services.
3. By a letter dated October 24, 2014 entitled *Human Services Agency Action Notice* the County notified petitioner that effective November 3, 2014 her MA Waiver services would be discontinued because she was no longer functionally eligible.
4. Petitioner has diagnosis of diabetes mellitus (type II) that is controlled, Coronary Artery Disease ["CAD"], hypertension, hypercholesteremia, spinal stenosis, and hyperaldosteronism.
5. On October 21, 2014 the County completed a *Long Term Care Functional Screen Report* ["LTCFSR"] for petitioner; the LTCFSR was completed after a visit with petitioner in her home and found that she is independent with: bathing (she uses a bath bench and states that "it takes more time"), eating, mobility in home (uses a walker or walls/furniture), transferring; medication; money management; and, telephone; the LTCFSR found that petitioner needs some help with: dressing (supervision, cueing, hands-on assistance; helper need not be present); toileting (supervision, cueing, hands-on assistance; helper need not be present); meal preparation (weekly or less; e.g. grocery shopping; she states that she must sit on a stool to cook); laundry (more than once per week; she states that she cannot hang-up her clothes because she cannot stand long enough); and, transportation (she does not drive or have a car)

### DISCUSSION

MA Waivers is run according to the terms of waivers that were granted to the State of Wisconsin by the United States government. The waivers allow the State of Wisconsin to operate MA without following all of the rules that normally apply to MA. Wis. Stat. §§ 46.27(11) (2011-12); See also, 42 U.S.C.A. § 1396n(c) (2000 Supplementary Pamphlet) and 42 C.F.R. §§ 435.217, 440.180 & 441.300 et. seq. (2012).

MA Waivers is a source of funding for long-term support for people who would otherwise face institutional care. MA Waivers was developed to provide eligible persons a safe community alternative to institutional placement. *Medicaid Home & Community-Based Waivers Services Manual* ["Waivers Manual"], §§ 1.01, 2.01.2 & 2.07.C. (January 2010).

In order to qualify for MA Waiver services, with certain exceptions not applicable here, a person's functioning must be such that they would otherwise require institutional care. Wis. Stat. §§ 46.27(11), & 46.27(6r)(b) (2011-12); Waivers Manual, §§ 2.01.2 & 2.07.C. (January 2010). The evidence in the record of this matter is that petitioner's functioning is not such as to make her in need of institutional care. Therefore, the County's discontinuance of MA Waiver services to petitioner must be upheld.

### CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not eligible for MA Community Waiver services

**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 19th day of December, 2014

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\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 December 19, 2014.

Rock County Department of Social Services  
Bureau of Long-Term Support