



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FCP/161424

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 23, 2014, under Wis. Admin. Code § DHS 10.55, to review a decision by the Community Care Inc. in regard to Medical Assistance, a hearing was held on January 13, 2015, at Kenosha, Wisconsin.

There remains no issue for determination.

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: Terry Ramage  
Community Care Inc.  
205 Bishops Way  
Brookfield, WI 53005

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. The Family Care Program (FCP) terminated the petitioner's meals on wheels benefits effective October 17, 2014.
3. Around the same time period the FCP conducted a rescreen on the petitioner to determine whether or not she was functionally eligible for the FCP. The agency conducted three different

screens, and each screen showed the petitioner was no longer functionally eligible for the FCP. This issue was addressed in a separate appeal under case number FCP-161172. In that appeal, I found that the petitioner was no longer functionally eligible for the FCP.

4. Because the petitioner is no longer functionally eligible for the FCP, she is no longer eligible for any services through the FCP including having Ensure provided to her.

### DISCUSSION

In order to be eligible for the FCP at the intermediate functional capacity level a person must need assistance to safely or appropriately perform either one or more ADL or one or more IADL. Wis. Adm. Code, § DHS 10.33(2)(d). ADLs include bathing, dressing, eating, mobility, and transferring. Wis. Adm. Code, § DHS 10.13(1m). IADLs include meal preparation, medication management, money management, laundry and chores, telephone, and transportation. Critical IADLs include management of medications and treatments, meal preparation and nutrition, and money management. For the reasons discussed in my written decision under appeal number FCP-161087, I concluded that the petitioner did not meet those functional eligibility requirements. Ensure was provided to the petitioner as a service through the FCP. Because the petitioner is no longer eligible for the FCP, she is no longer eligible to receive Ensure through the program.

### CONCLUSIONS OF LAW

There remains no issue for determination because the petitioner is no longer functionally eligible for the FCP.

**THEREFORE, it is**

**ORDERED**

That the petition 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 Milwaukee,  
Wisconsin, this 21st day of January, 2015

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\sCorinne Balter  
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 January 21, 2015.

Community Care Inc.  
Office of Family Care Expansion