



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

Redacted case name and number

DECISION

CWA/162290

PRELIMINARY RECITALS

Pursuant to a petition filed November 26, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Brown County Human Services ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on January 13, 2015.

The issue for determination is whether it was correct to discontinue petitioner's MA waivers Community Integration Program ["CIP"] services.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

Redacted petitioner information

Represented by:

Redacted, petitioner's mother & Power Of Attorney ["POA"]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
BY: Redacted, CIP Supervisor
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact; 26 years old) is a resident of Brown County, Wisconsin.
2. Petitioner was receiving CIP services.
3. Medical documentation shows that petitioner has longstanding diagnosis, going back many years, of, among other things, autism, Attention Deficit Disorder ["ADD"], and Pervasive Developmental Disorder ["PDD"]; based on this documentation petitioner was functionally eligible for CIP.
4. On March 20, 2014 petitioner was examined and the resulting *Psychiatric Consultation* report stated, in part: "Evaluation of treatment records and current symptomatology strongly indicate that bipolar disorder is the appropriate diagnosis and that none of the previous diagnosis, particularly attention deficit disorder, are valid."
5. Based on the March 2014 *Psychiatric Consultation* report the County concluded that petitioner was not functionally eligible for CIP.
6. By a *Long Term Care Services Notice of Agency Action* dated October 29, 2014 petitioner was notified that his CIP services would be discontinued effective November 4, 2014 because he was not functionally eligible.

DISCUSSION

CIP 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 CIP without following all of the rules that normally apply to MA. Wis. Stat. §§ 46.275, 46.277 & 46.278 (2011-12); See also, 42 U.S.C.A. § 1396n(c); 42 C.F.R. §§ 435.217, 440.180 & 441.300 et. seq. (2011); and, *Medicaid Home & Community-Based Services Waivers Manual* (January 2010) ["Waivers Manual"] §§ 1.02. & 2.02.B. & C.

CIP is a source of funding for long-term support for people who would otherwise face institutional care. The purpose of CIP-II is to provide funding for the option of community integration to people who are otherwise eligible for MA funded institutional care. In order to qualify for CIP services a person's functioning must be such that they would otherwise require institutional care. Wis. Stat. §§ 46.275(1), 46.277(1) & 46.278(1) (2011-12); Waivers Manual, §§ 2.0.1.2 & 2.0.7.C.

The County based its determination solely petitioner's most recent evaluations (the March 2014 *Psychiatric Consultation* and another evaluation that is not part of the record of this matter). In reaching its determination the County disregarded medical documentation showing petitioner's longstanding diagnosis, going back many years, of autism, ADD, and PDD. The reason for this is because the March 2014 *Psychiatric Consultation* stated that "none of the previous diagnosis, particularly attention deficit disorder, are valid." This approach by the County was not correct. In determining whether or not a person is functionally eligible for CIP all of the person's medical documentation, as well as the person's medical history, must be considered. The fact that some medical documentation is more recent than other medical documentation is one factor to consider -- but it is not the only factor. When the medical documentation is inconsistent the inconsistencies must be addressed and resolved. This is especially true when inconsistencies exist in recent medical documentation. In this case, for instance, an evaluation of petitioner dated July 25, 2013 done at *Bellin Behavioral Health Clinic* clearly states that he has diagnosis of Attention Deficit Hyperactivity Disorder ["ADHD"] and of PDD. Another evaluation may be necessary.

CONCLUSIONS OF LAW

For the reasons discussed above, it was not correct to discontinue petitioner's CIP services.

THEREFORE, it is

ORDERED

That this matter be REMANDED to the County, that the County not discontinue petitioner's CIP services, and that, within 10 days of the date of this *Decision*, the County reinstate petitioner's CIP services retroactive to the date they were discontinued.

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 2nd day of February, 2015

\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 February 2, 2015.

Brown County Human Services
Bureau of Long-Term Support