



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

Redact
Redact
Redact

DECISION

FCP/164402

PRELIMINARY RECITALS

Pursuant to a petition filed March 3, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Care Wisconsin First, Inc. ["CWF"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on April 14, 2015.

The issue for determination is whether petitioner meets the Nursing Home Level of Care ["LOC"] eligibility requirement for the Wisconsin MA Partnership program.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact
Redact
Redact

Respondent:

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

BY: Redact, RN, Long Term Functional Screen Specialist
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 (CARES # Redact; 65 years old) is a resident of Dane County, Wisconsin.

2. Petitioner has diagnoses of diabetes mellitus (generally well managed but not always under control; he had an Emergency room ["ER"] visit in September 2014), obesity, and hypertension; he has a substance abuse issue (alcohol and marijuana), is color blind, and currently lives in an Adult Family Home ["AFH"].
3. Petitioner can independently bath, dress, eat, ambulate (his bedroom is on the second floor and he can independently go up & down the stairs), toilet (has incontinence about 1 time per week), transfer, prepare some meals, manage medicine (needs help 1 to 2 days per week), manage money, do laundry, use telephone; he helps with snow shoveling and yard work.
4. A *Long Term Care Functional Screen Report* completed on February 25, 2015 concluded that petitioner had a non-nursing home LOC.
5. A second *Long Term Care Functional Screen Report* completed in March 24, 2015 concluded that petitioner was functionally ineligible the Wisconsin MA Partnership program

### DISCUSSION

The Wisconsin MA Partnership program is a comprehensive waiver program integrating health and long term support services for people who are elderly or disabled. Services are delivered in the participant's home or a setting of his or her choice. Through team based care management, the participant, his or her physician, nurses, and social workers together develop a care plan and coordinate all service delivery. *Medicaid Eligibility Handbook* ["MEH"] 30.1; See also, Wis. Stat. § 49.45(32) (2013-14).

An individual must be found functionally eligible at the Nursing Home LOC to be eligible for Partnership. MEH 30.1 & 30.4. There are several ways to meet the Nursing Home LOC depending on a person's ability to perform Activities of Daily Living ["ADLs"] and Instrumental ADLs ["IADLs"]. Wis. Admin. Code § DHS 10.33(2)(c) (December 2013); See also, Wis. Stat. § 46.286(1)(a)1m. (2013-14).

As reflected in the above *Findings of Fact*, petitioner does not meet the Nursing Home LOC. He can perform all ADLs and IADLS independently. He does need some help with medication and testified that he needs to step on every step twice when doing stairs -- but he clearly does not meet the Nursing Home LOC.

### CONCLUSIONS OF LAW

For the reasons discussed above, petitioner does not meet the Nursing Home LOC eligibility requirement for the Wisconsin MA Partnership program.

**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 6th day of May, 2015

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\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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 6, 2015.

Care Wisconsin First, Inc  
Office of Family Care Expansion