



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted]
[Redacted]
Redact
[Redacted]

DECISION

FCP/164442

PRELIMINARY RECITALS

Pursuant to a petition filed March 5, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Western Wisconsin Cares ["WWC"] in regard to Medical Assistance ["MA"] Family Care Program ["FCP"], a Hearing was held via telephone on June 2, 2015. At petitioner's request Hearings scheduled for May 14, 2015 and April 14, 2015 were rescheduled.

The issue for determination is whether WWC must provide transportation to petitioner in addition to the transportation that is already provided by the Adult Family Home ["AFH"] where he lives.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact
[Redacted]

Respondent:

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

BY: [Redacted], Social Worker, Care Manager
Western Wisconsin Cares
Suite 100
La Crosse, Wisconsin
54603-2378

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]; 26 years old) is a resident of La Crosse County, Wisconsin.
2. Petitioner has diagnoses of Attention Deficit Hyperactivity Disorder ["ADHD"], anxiety, and autism.
3. Petitioner lives in an AFH; the AFH provides transportation for petitioner; the cost of this transportation is included in the residential rate paid to the AFH.
4. By a *Notice of Action* dated January 30, 2015 WWC notified petitioner that effective February 16, 2015 it would no longer provide transportation to petitioner in addition to the transportation that is already provided by the AFH where he lives.

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); See also, Wis. Stat. § 46.284 (2013-14); *Medicaid Eligibility Handbook* ["MEH"] 29.2. 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 WWC notified him that it would no longer provide transportation in addition to the transportation that is already provided to him by his AFH.

Services provided under FCP must be determined through individual assessment of enrollee needs and detailed in an individual service plan unique to each enrollee; services must be cost-effective. Wis. Admin. Code § DHS 10.41(2) (December 2013).¹ The service plan must reasonably and effectively address all of long-term care needs and utilize all enrollee strengths and informal supports. Wis. Admin. Code § DHS 10.44(2)(f)1. (December 2013). A service plan for an FCP participant must be cost-effective compared to alternative services or supports that could meet the same needs and achieve similar outcomes. Wis. Admin. Code § DHS 10.44(2)(f)3. (December 2013); See also, Wis. Admin. Code § DHS 10.44(2)(f)5.c. (December 2013).

In this case it is clearly more cost-effective for petitioner to use the transportation services already provided by his AFH. Petitioner argues that the AFH transportation must be scheduled in advance and that he is impulsive and cannot always schedule his transportation in advance. He also argues that having transportation available without advance scheduling is a safety issue for him since he may go on walks at night or in the winter and may be stuck without a way back to the AFH if he does not have additional transportation available.

It is true that petitioner suffers from ADHD, anxiety, and autism -- but the evidence in the record of this matter does not show that he is incapable of conforming his behavior in such a way as to be able to use the transportation provided by his AFH. Although he may prefer additional transportation and may get

¹ Such services typically include, among many other things, transportation services. Wis. Admin. Code § DHS 10.41(2)Note (December 2013).

anxious if he cannot get out of the AFH when he wants the evidence is that he has had a job, is capable of planning, and is independent in navigating in the community.

CONCLUSIONS OF LAW

For the reasons discussed above, WWC need not provide transportation to petitioner in addition to the transportation that is already provided by the AFH where he lives.

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 10th day of June, 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 June 10, 2015.

Western Wisconsin Cares-FCP
Office of Family Care Expansion