



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FCP/165056

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 01, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance, a hearing was held on April 28, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the Family Care Program (FCP) is correct in not paying for the Supportive Home Care services provided to the petitioner in February 2015 due to a dis-enrollment when the dis-enrollment occurred in error.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Jefferlyn Harper-Harris  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # ) is a resident of Milwaukee County.

2. The petitioner is enrolled in and receives services through the Family Care Program (FCP). The petitioner has hemiplegia of the right side. He is bedbound and not able to move. He is not able to bend any of his limbs and relies on his family to complete every aspect of his daily living. He is post stroke and also suffers from Fibromyalgia, COPD, Gouty Arthritis, Chronic Pain, and Dementia.
3. The petitioner completed a review in December 2014. The petitioner was asked to verify assets during this review process. The petitioner timely provided the requested verification.
4. Milwaukee County Enrollment services did not timely process the verification that the petitioner provided. There was a change in case workers at this time, and I believe that the verification items were lost during this transition.
5. The petitioner was dis-enrolled from the FCP as of December 31, 2014. The petitioner completed a new application, and was re-enrolled effective March 1, 2015. Income Maintenance or Milwaukee Enrollment Services received the petitioner's request for fair hearing, and backdated the petitioner's Medicaid waivers coverage to January 1, 2015.
6. Although the petitioner was serviced continuously from January 1, 2015 through February 28, 2015, the petitioner's family member did not receive payment for the Supportive Home Care hours for February 2015.
7. The Division of Hearings and Appeals timely received the petitioner's request for fair hearing.

### DISCUSSION

The Family Care program, which is supervised by the Department of Health and Family Services, is designed to provide appropriate long-term care services for elderly or disabled adults. It is authorized in the Wisconsin Statutes, §46.286, and is described comprehensively in the Wisconsin Administrative Code, Chapter HFS 10.

The agency is required to verify a FCP recipient's financial information including assets and income. *Medicaid Eligibility Handbook (MEH)*, §20.3.1. If the recipient timely provides the requested verification, then the recipient continues to receive his or her benefit. *MEH*, §20.8.1. If the recipient fails to timely provide the requested verification, then the person's benefits may be terminated. *MEH*, §20.8.3. The verification date is the date that the verification item is delivered to the appropriate Income Maintenance Agency. *MEH*, §20.1.3.

In this case the agency requested that the petitioner provide verification, and the petitioner timely provided the requested verification. The petitioner's representative testified that she timely delivered this verification to the Income Maintenance Agency in Milwaukee County. This agency is commonly referred to Milwaukee Enrollment Services. I find the petitioner's representative's testimony credible in this respect.

The case notes state that on December 17, 2014 the petitioner's representative called because she received a letter stating that the T-19 review was not received. At that time she reported that she had provided her only copy of the verification items to the petitioner's case worker. She had not yet received those items back. The petitioner's representative provided this same information on January 30, 2015 and also at the hearing. The note from January 30, 2015 further states that someone by the name of Tina had been attempting to contact the petitioner's case manager for over a month via e-mail, and had not yet received a response. There was a transition in case workers during this time. The credible evidence in this case is that the petitioner's representative provided the verification to the old case worker, and that information was never forwarded to the new case worker. The petitioner should never have been dis-enrolled, and thus I can see no reason that the supportive home care hours should not be paid for February 2015.

**CONCLUSIONS OF LAW**

The agency should not have dis-enrolled the petitioner for failing to provide verification, and thus the petitioner's supportive home care hours for February 2015 should be paid.

**THEREFORE, it is**

**ORDERED**

That this case is remanded back to the agency to provide payment for the petitioner's February 2015 supportive home care hours. The agency shall comply with this order 10 days from the date of this decision.

**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 May, 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 May 21, 2015.

Milwaukee Enrollment Services  
Office of Family Care Expansion