



STATE OF WISCONSIN  
Division of Hearings and Appeals

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

[REDACTED]

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed August 20, 2015, under Wis. Admin. Code § DHS 10.55, to review a decision by the MY Choice Family Care in regard to Medical Assistance, a hearing was held on November 11, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether there is any issue ripe for appeal.

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: [REDACTED]  
MY Choice Family Care  
901 N 9th St  
Milwaukee, WI 53233

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County.
2. Petitioner explained that she had previously been eligible for subsidized meal service in the home in which she lives. She explained that the FC program has taken away the food benefit of one hot meal each day.

3. Petitioner also explained that she had previously received the benefit of transportation rides for various purposes. Petitioner claims that this benefit has also been denied or removed.
4. In DHA Case No. [REDACTED], the Division by ALJ McCombs affirmed the agency's determination that petitioner no longer met the functional requirements for the FC program.
5. Petitioner voluntarily disenrolled on August 15, 2015.
6. The benefits of which petitioner seeks reinstatement are benefits that were available under the nursing home level of care.
7. Petitioner filed a request for hearing dated 8/18/15 and filed on 8/24/15.

### DISCUSSION

On June 23, 2015 ALJ McCombs issued a decision following hearing in Case No. [REDACTED] in which he found that petitioner no longer meets the functional requirements for the FC program. It does not appear that petitioner requested a rehearing within 20 days or appealed to a circuit court within 30 days. Both those rights were explained to her in decision from ALJ McCombs. It appears that petitioner disagrees with the effects of that decision. This disagreement does not give rise to a new appeal right. Petitioner should have pursued either of her avenues of redress from the case [REDACTED]. The agency then terminated her benefits. Petitioner's request for hearing, even if interpreted as a rehearing request, is not timely. There is no ripe appeal as the issue has already been decided and no further avenues for relief remain.

### CONCLUSIONS OF LAW

There is no issue ripe for appeal.

**THEREFORE, it is**

**ORDERED**

This appeal 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 Madison,  
Wisconsin, this 28th day of December, 2015

---

\sJohn P. Tedesco  
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 December 28, 2015.

MY Choice Family Care  
Office of Family Care Expansion  
Health Care Access and Accountability