



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWA/168425

PRELIMINARY RECITALS

Pursuant to a petition filed September 03, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Rock County Department of Social Services in regard to Medical Assistance, a hearing was held on October 06, 2015, at Elkhorn, Wisconsin.

The issue for determination is whether a decision by the Division of Hearings and Appeals can affect any eligibility for any program that Petitioner has applied for or is involved in, that is, whether Petitioner's appeal is moot.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Diane Jones and Jennifer Thompson
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

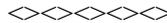
1. Petitioner is a resident of Walworth County.

- 2. This appeal was filed on behalf of Petitioner after Petitioner’s guardian, her mother, received a notice that indicated that an application had been denied because Petitioner was not functionally eligible.
- 3. A personal care screening tool assessment of Petitioner was completed on or about August 5, 2015. It is not clear why the PCST was done; the agency believes that an application for the Community Integration Program was filed on behalf of Petitioner but Petitioner’s mother stated at hearing that no application has been filed for any program or service.
- 4. Petitioner does have a job coach through a county level program. There was assurance at the hearing that Petitioner’s participation in that program is not affected by the PCST.

DISCUSSION

In order for the Division of Hearings and Appeals to have authority to make a determination on the merits of a matter it must have authority to do so. Division of Hearings and Appeals authority is granted by State law and the relevant laws state the following as to that authority:

(5) APPEAL. (a) Any person whose application for medical assistance is denied or is not acted upon promptly or who believes that the payments made in the person’s behalf have not been properly determined or that his or her eligibility has not been properly determined may file an appeal with the department pursuant to par. (b). Review is unavailable if the decision or failure to act arose more than 45 days before submission of the petition for a hearing.
Wis. Stats., §49.45(5).



(b) *Purpose of hearing.* The purpose of the fair hearing is to allow a recipient to appeal department actions which result in the denial, discontinuation, termination, suspension or reduction of the recipient’s MA benefits. The fair hearing process is not intended for recipients who wish to lodge complaints against providers concerning quality of services received, nor is it intended for recipients who wish to institute legal proceedings against providers. ...
Wis. Admin. Code, §DHS 104.01.

Here there is nothing that shows that Petitioner has applied for or seeks eligibility for any program other than the local program that provides the job coach. Whatever that program is, it is apparently a local, county program. It is not a State program. There is nothing further about it except the assurance that the PCST is not relevant to the program. There is nothing to suggest that the Division of Hearings and Appeals has authority over it and, even if it did, that any negative action has occurred. As there is nothing here to indicate that the Division of Hearings and Appeals can issue a decision that has any effect on any program that Petitioner is involved in or that Petitioner has applied for any program, I am considering this matter to be moot. A matter is moot if the review sought cannot have a practical effect on the existing controversy. See *Racine v. J-T Enterp.*, 64 Wis. 2nd 691, 702; 221 N.W. 2nd 869, 875 (1974).

If circumstances have changed or new information has developed Petitioner should note the rehearing instructions below.

CONCLUSIONS OF LAW

The instant appeal is moot because a decision on the merits can have no practical effect.

THEREFORE, it is

ORDERED

That 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 Milwaukee,
Wisconsin, this 30th day of November, 2015

\sDavid D. Fleming
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 November 30, 2015.

Rock County Department of Social Services
Bureau of Long-Term Support