



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: FCP - 213209

PRELIMINARY RECITALS

Pursuant to a petition filed on April 29, 2024, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on June 26, 2024, by telephone.

The issue for determination is whether the petitioner was incorrectly disenrolled from the Family Care program.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Kyra Oberg
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. As of March 15, 2021, the petitioner was enrolled in the Family Care program (FCP), with My Choice Wisconsin her managed care organization (MCO).
3. A Long Term Care Functional Screen was completed for the petitioner on or about October 9, 2023. It found that the petitioner met the target groups of Physical Disability and Severe and Persistent Mental Illness, that she had a Nursing-Home level of care, and was functionally eligible for the FCP.
4. On January 15, 2024, notice was provided to the petitioner that she needed to complete a health care renewal or her benefits would end as of February 29, 2024.
5. Prior to the February 29, 2024 deadline, the petitioner timely completed her renewal which included providing all requested verification.
6. In processing the renewal, the income maintenance (IM) agency erred by failing to test the petitioner for Home-Based Community Waiver program. If it had, the petitioner would have been found to still be eligible for FCP as she was functionally and financially eligible. Testimony of agency representative.
7. Due to agency error, the petitioner was incorrectly disenrolled from FCP as of February 29, 2024. Testimony of agency representative.
8. The petitioner timely appealed.

DISCUSSION

The Family Care program (FCP) is a MA waiver program that provides appropriate long-term care services for elderly or disabled adults. Wis. Stat. §46.286; see also Wis. Admin. Code, Chapter DHS 10. To be eligible, a person must meet the program's financial and non-financial criteria, including functional criteria. Wis. Admin. Code, §§DHS 10.32(1)(d) and (e). Once a person meets all the program's eligibility criteria, she is "entitled to enroll in a care management organization and to receive the family care benefit." Wis. Admin. Code §DHS 10.36(1).

A FCP participant can be involuntarily disenrolled from the FCP if they lose or are determined ineligible for MA. See Contract Between the Department of Health Services and MCOs, Article IV, Enrollment and Disenrollment, pg. 45, found online at: <https://www.dhs.wisconsin.gov/familycare/mcos/fc-fcp-2024-contract.pdf>

In this case, the petitioner was already enrolled in the FCP. She was disenrolled from the FCP on February 29, 2024 as a result of the processing of her health care renewal. IM acknowledged that the petitioner was incorrectly disenrolled from the FCP due to agency error in processing her February 2024 health care renewal. But for that error, it was indicated that petitioner would have been found to continue to be eligible for FCP and the disenrollment would not have occurred. It was indicated that the petitioner continued to be financially and functionally eligible for the FCP at the time of her health care renewal. The petitioner, IM representative, and MCO representative at hearing all agreed the petitioner's FCP benefits should be reinstated as of March 1, 2024.

I would note that this case does not deal with backdating FCP following a delayed processing of a new application but the incorrect disenrollment from the FCP due to agency error. Thus, it is issued as a final decision.

CONCLUSIONS OF LAW

Due to agency error, the petitioner was incorrectly disenrolled from the Family Care program.

THEREFORE, it is ORDERED

That this matter be remanded to the IM/MCO with the following instructions: within 10 days of the date of this Decision, take all necessary administrative steps to restore petitioner’s FCP enrollment and authorizations retroactive to March 1, 2024.

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, 4822 Madison Yards Way, 5th Floor North, 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.

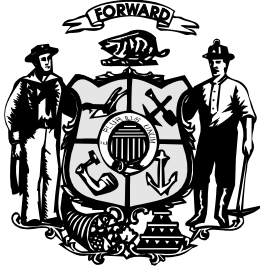
APPEAL TO COURT

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, **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 27th day of June, 2024


vs _____
Jason M. Grace
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 27, 2024.

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