



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

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In the Matter of

██████████  
██████████████████  
██████████████████

**DECISION**  
Case #: FCP - 210801

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on October 26, 2023, under Wis. Admin. Code § DHS 10.55, to review a decision by the ADRC of Milwaukee County regarding Medical Assistance (MA), a hearing was held on December 14, 2023, by telephone.

The issue for determination is whether petitioner is functionally eligible for the Family Care Program (FCP).

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: Catherine Moe, QI Coordinator, ADRC  
ADRC of Milwaukee County  
Aging Resource Ctr-Suite 300  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kelly Cochrane  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a resident of Milwaukee County. He is diagnosed with schizophrenia and a substance use issue.

2. On August 17, 2023 petitioner was referred for eligibility screening for the FCP.
3. On August 25, 2023 a Long-Term Care Functional Screen (LTCFS) was performed for the petitioner.
4. On September 6, 2023 the agency issued a notice to petitioner advising him that he was not functionally eligible for any long-term care programs like the FCP.

**DISCUSSION**

The FCP, which is supervised by the Department of Health Services (DHS), 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 DHS 10. The FCP is intended to meet the long-term care and health care needs of the following “target groups”: frail elders, an adult with a physical disability as defined under Wis. Stat. § 15.197(4)(a)2., or an adult with developmental disability as defined in Wis. Stat. § 51.01(5)(a). See Wis. Stat. § 46.286(1); see also Wis. Adm. Code DHS § 10.32(1)(c).

Under the laws referenced above, “physical disability” means a “physical condition, including an anatomical loss or musculoskeletal, neurological, respiratory or cardiovascular impairment, which results from injury, disease or congenital disorder and which significantly interferes with or significantly limits at least one major life activity of a person.” Wis. Stat. § 15.197(4)(a)2. “Developmental disability” means:

a disability attributable to brain injury, cerebral palsy, epilepsy, autism, Prader-Willi syndrome, intellectual disability, or another neurological condition closely related to an intellectual disability or requiring treatment similar to that required for individuals with an intellectual disability, which has continued or can be expected to continue indefinitely and constitutes a substantial handicap to the afflicted individual. “Developmental disability” does not include dementia that is primarily caused by degenerative brain disorder.

Wis. Stat. § 51.01(5)(a).

As part of determining whether someone is functionally eligible for the FCP, the agency uses a uniform functional screening process - the LTCFS. See Wis. Adm. Code DHS § 10.33(2)(a). The agency performed that function for the petitioner. Petitioner is not diagnosed with either a physical or developmental disability and is not a frail elder. He was determined to meet the definition of “severe and persistent mental illness”, however, that is not an eligible target group for the FCP. See Wis. Stat. § 46.286(1), Wis. Adm. Code DHS § 10.32(1)(c) and Wis. Stat. § 51.01(14t). He therefore does not meet the target group eligibility under the law for the FCP. I must find the agency correctly determined that he was not functionally eligible for the FCP.

**CONCLUSIONS OF LAW**

The petitioner is not functionally eligible for the FCP.

**THEREFORE, it is ORDERED**

The petition for review herein 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, 4822 Madison Yards Way, 5<sup>th</sup> 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.

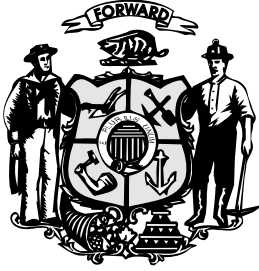
## APPEAL TO COURT

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 Milwaukee,  
Wisconsin, this 3rd day of January, 2024

\s \_\_\_\_\_  
Kelly Cochrane  
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 January 3, 2024.

ADRC of Milwaukee County  
Office of Family Care Expansion  
Health Care Access and Accountability