



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: FCP - 211691

PRELIMINARY RECITALS

Pursuant to a petition filed on January 9, 2024, under Wis. Admin. Code § DHS 10.55, to review a decision by the ADRC of La Crosse County regarding Medical Assistance (MA), a hearing was held on February 21, 2024, by telephone.

The issue for determination is whether agency erred in its determination that petitioner is not eligible for long-term care waiver services due to not falling within a “target group.”

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: Shelly Bolstad
ADRC of La Crosse County
300 4th St. N
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a 64 year-old resident of Wisconsin.

2. The petitioner was placed under a Ch. 55 protective placement in La Crosse County Case No [REDACTED]. The examining physician's report in that case directed the medical consultant to select all conditions related to the petitioner's incapacity, with options provided of developmental disability, degenerative brain disorder, serious and persistent mental illness, and other like incapacities. The sole condition selected was serious and persistent mental illness, with a supporting diagnosis listed of schizophrenia.
3. Petitioner sought long-term care waiver services.
4. On or about December 19, 2023, the ADRC of La Crosse County completed a long-term care functional screen of the petitioner to determine functional eligibility for long-term care waiver services. She was found to be in need of assistance with 3 Activities of Daily Living (bathing, dressing, and eating) and 5 Instrumental Activities of Daily Living (meal preparation, medication administration/management, money management, laundry/chores, and transportation). She was found functionally ineligible for long-term care waiver services because she did not fall within an eligible target group. Specifically, she was found to belong to the target group of severe and persistent mental illness.
5. Petitioner, by her representative, appealed.

DISCUSSION

The long-term waiver programs, which are administered by the Department of Health Services, is designed to provide appropriate long-term care services for individuals who fall within the following "target groups": 1. Frail elders; 2. individuals aged 18 and older who have physical disabilities, as defined in Wis. Stats. § 15.197(4)(a)2; and 3. individuals aged 18 and older who have developmental disabilities. See, e.g. Wis. Stats. §46.286. To be eligible for enrollment in a long-term care waiver program, an individual must fall within one of these target groups AND need a "nursing home" (referred to as comprehensive) or "non-nursing home" (referred to as intermediate) level of care. See, Wis. Stats. §46.286(1)(a).

The ADRC completed a long-term care functional screen (LTCFS) of the petitioner. Following that screen, the petitioner was determined not to meet one of the target groups for the long-term care waiver program. According to the examining physician's report submitted in the record from the Ch. 55 case, the petitioner's needs relate to a severe and persistent mental illness. See, Finding of Fact 2. That report did not attribute those needs to a developmental disability or other like incapacity. Id. That evidence was not rebutted at hearing by compelling and competent evidence. The target group of severe and persistent mental illness is not one of the eligible long-term care program target groups. While I understand that the petitioner has significant need for assistance, she is ineligible for the long-term care program because she is not a member of one of the required target groups for the program.

Based on the record before me, I am not able to find that the agency erred in its determination that petitioner is functionally ineligible for the long-term care program.

CONCLUSIONS OF LAW

The agency did not err in its determination that the petitioner is ineligible for long-term care program as she does not meet an eligible "target group."

THEREFORE, it is

ORDERED

That the petitioner’s 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, 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

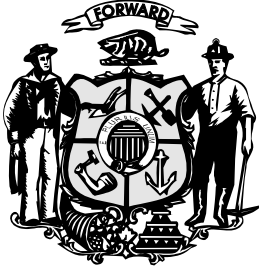
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 20th day of March, 2024



\s _____
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 March 20, 2024.

ADRC of La Crosse County
Office of Family Care Expansion
Health Care Access and Accountability