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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FCP - 218179

PRELIMINARY RECITALS

Pursuant to a petition filed May 4, 2025, under Wis. Admin. Code, §DHS 10.55, to review a decision by MY Choice Family Care regarding the Family Care Program (FCP), a hearing was held on June 11, 2025, by telephone.

The issue for determination is whether the agency correctly disenrolled petitioner from the FCP while a Medical Assistance (MA) renewal was pending.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Mary Swab
MY Choice Family Care
10201 Innovation Dr, Suite 100
Wauwatosa, WI 53226

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. Petitioner has been eligible for the FCP with My Choice Family Care as the managed care organization (MCO). Her FCP eligibility was based upon her eligibility for MA under the Medicaid Purchase Plan (MAPP).

3. Petitioner was due for a renewal of the MAPP program in late 2024. She started the renewal on December 27, 2024 and completed it on January 2, 2025. She provided verification of assets and in-kind work timely, but the asset verification was illegible, and the in-kind letter did not include monthly hours. Petitioner provided more verification, but it still was insufficient, so the agency extended the deadline for verification.
4. In the meantime MAPP closed February 1, 2025 although the renewal still was pending. That led to petitioner being disenrolled from the FCP effective February 1, 2025. There is no record of petitioner being informed about the disenrollment.
5. The renewal was completed and the MAPP premium paid before the end of February, 2025.
6. Because of the FCP disenrollment, petitioner had to re-enroll through the ADRC. Re-enrollment was established on April 7, 2025.

DISCUSSION

The Family Care program, which is supervised by the Department of Health Services, 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.

This case was put forward to me as a request for a backdate of the new enrollment based upon FCP rules that eligibility can begin only as of the date of application and fulfillment of other eligibility requirements. However, I am going in a different direction. Wis. Admin. Code §DHS 10.52(3) reads (I note that the code provision uses the old acronym “CMO” instead of “MCO”):

Clients shall be given written notice of any intended adverse benefit determination at least 10 days prior to the date of the intended adverse benefit determination in accordance with all of the following:

- (a) Notification shall be provided as follows:...
2. By the CMO in every instance in which the CMO makes an adverse benefit determination under s. DHS 10.13(1)(b).
 - (b) The notification of intended adverse benefit determination shall include an explanation of all the following, as applicable:
 1. The adverse benefit determination the county agency, resource center or CMO intends to take, including how the adverse benefit determination will affect any services that the applicant or enrollee currently receives.
 - 1m. The effective date of the adverse benefit determination.
 2. The reasons for the adverse benefit determination.
 3. Any laws that support the adverse benefit determination.
 4. The applicant's or enrollee's right to file an appeal with the CMO or request a fair hearing with the resource center or county agency.
 5. How to file an appeal or a fair hearing and the timelines for doing so.
 - 5m. The circumstances under which expedited resolution of an appeal is available and how to request it.
 6. That if the applicant or enrollee files an appeal, he or she has a right to appear in person before the CMO personnel assigned to resolve the appeal.
 7. If the adverse benefit determination will affect any services that the enrollee currently receives through the family care benefit, the circumstances in which the enrollee's services will be continued under s. DHS 10.56 pending the outcome of an appeal, how

the enrollee can request that the services be continued, and the circumstances in which the enrollee may be required to repay the costs of the continued services.

Involuntary disenrollment from the MCO is one of the adverse determinations noted in §DHS 10.13(1)(b). The MCO must give notice ten days prior to the negative action along with the opportunity for the member to request that services be continued pending an appeal.

There is no record that the MCO gave petitioner ten days' notice; all notices in the record concern MAPP only. Therefore the disenrollment was not valid, and petitioner's eligibility for FCP and enrollment therein should be restored for the dates of February 1 through April 6, 2025. Without prior notice petitioner's appeal also cannot be deemed to be untimely. If petitioner's caregivers performed services during that time, they can submit claims for payment once the re-enrollment has been established.

CONCLUSIONS OF LAW

The MCO incorrectly disenrolled petitioner from the FCP without giving her ten days' notice of the adverse action.

THEREFORE, it is

ORDERED

That the matter be remanded to My Choice Family Care with instructions to restore petitioner's FCP enrollment and authorizations for the period February 1 through April 6, 2025, within 10 days of this decision.

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.

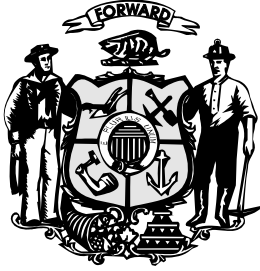
APPEAL TO COURT

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 16th day of June, 2025

\s _____
Brian C. Schneider
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 16, 2025.

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

[REDACTED]
[REDACTED]