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**State of Wisconsin**  
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**DIVISION OF LONG TERM CARE**

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**MEMORANDUM**

**Date:** April 3, 2009

**To:** Family Care Managed Care Organization Directors

**From:** Monica Deignan *Monica Deignan*  
Managed Care Section Chief  
Office of Family Care Expansion

**Subject:** Contract Interpretation Bulletin Attached

The purpose of the attached contract interpretation bulletin is to clarify procedures MCOs are to follow when an MCO employee conducts a long-term care functional screen that results in the level of care of a person enrolled in Family Care changing from the nursing home level of care to the non-nursing home level of care.

Please read and maintain this contract interpretation bulletin with your 2009 Family Care contract.

If you have questions, you may contact Marge Pifer at [Marjorie.Pifer@wisconsin.gov](mailto:Marjorie.Pifer@wisconsin.gov) or 608-266-3416.

**Family Care Contract**  
and  
**Family Care Partnership Contract**  
**Contract interpretation bulletin**  
**for CY 2009 Contract**

CIB #2009-2

Procedures When an MCO Employee Conducts a Long-Term Care Functional Screen  
That Results in the Level of Care of a Person Enrolled in Family Care Changing from  
Nursing Home Level of Care to Non-Nursing Home Level of Care

Final Issue: February 27, 2009  
Effective Date: April 3, 2009

**Statutory basis**

§46.287 (2) (a) 1. a. Wisconsin Statutes  
HFS 10.52 (2) Wisconsin Administrative Code  
HFS 10.56 (1) (a) Wisconsin Administrative Code

**Related contract sections**

Family Care Article V.A.3.  
Family Care Partnership Article IC.B.3

**Statement of policy**

The policy of the Department of Health Services is that all members in a managed long-term care program shall receive prompt notice of any change in their functional eligibility status as the result of completion of a long-term care functional screen by an MCO employee.

**Background**

In current practice, if the person does not lose Medicaid eligibility as a result of the change, the CARES system sends a notice to the person but it says only, “there has been a change in your eligibility.” This is not sufficient information for an individual to recognize that it might be advantageous to appeal the change. An MCO may not send a notice to such a person until or unless it decides to reduce or terminate services. Since there may be no immediate notice of a change in services, again there may not be sufficient and timely information for an individual to recognize that it might be advantageous to appeal the change.

Since there may be an actual negative impact on an individual’s eligibility and access to services, DHS believes that it is important for members whose level of care changes from the nursing home level of care to the non-nursing home level of care to receive an understandable written notice that clearly explains the potential impact of the change and explains the opportunities to appeal the change.

## **Purpose of bulletin**

The purpose of this bulletin is to require MCOs to establish new interim procedures to issue a notice of action whenever anyone on the MCO staff conducts a functional screen which results in a change in level of care for a Family Care enrollee from the nursing home level of care to the non-nursing home level of care. The notice must contain the following information:

- The most recent evaluation of level of care using the long-term care functional screen determined that the member no longer meets the nursing home level of care. (The long-term care functional screen is the tool that the MCO is required to use to evaluate each member's level of care annually or whenever there is a change in a member's condition.)
- The effective date of the change.
- The person is still functionally eligible for Family Care at the non-nursing home level of care.
- The change means that the person is not entitled to the same level of services as s/he was before. (Provide some explanation of the difference in benefit available directly or by reference to the member handbook and offer an opportunity to talk to someone about the change – care manager, member rights specialist, etc.)
- If there will be a change in services, a separate notice will be sent. The member will have an opportunity to appeal any change in services.
- The change in level of care has been sent to the Department of Health Services, which will cause an automatic review of Forward Health (Medicaid) eligibility which could result in a change in Medicaid eligibility and Family Care status. Contact income maintenance with questions related to Medicaid.
- The member has the following rights:
  - To request a re-screening.
  - To request a State fair hearing.
  - To obtain, free of charge, copies of member records relevant to the appeal and how to obtain copies.
- The availability of help from the MCO and information about the Family Care ombudsman and other independent advocacy services and other local organizations that might assist the member in a grievance, appeal, DHS review or fair hearing.
- The member has a right to request rescreening in the future if the member's condition changes.

## **Interim Procedure:**

As of the effective date of this CIB, the MCO shall adapt and use the interim notice form in Attachment 1 to begin providing notice each time a member's level of care changes from the nursing home level of care to the non-nursing home level of care.

## **Planned Future Procedures:**

1. OFCE intends to work with MCOs to develop a final notice form to be used by all MCOs.
2. OFCE intends to seek changes to CARES that will result in automatic issuance of notices in such situations, which would allow MCOs to discontinue this interim procedure.

[MCO letterhead]

## NOTICE OF CHANGE IN LEVEL OF CARE

TO [Member/Guardian name]  
[Address 1]  
[Address 2]

DATE [Date]

This letter is to notify you that there has been a change in your level of care as determined on the Long Term Care Functional Screen. The Long Term Care Functional Screen is the tool that [MCO] is required to use to evaluate each member's level of care. We are required to re-determine level of care annually or whenever there is a change in a member's condition.

The Long Term Functional Screen determined that you no longer meet the nursing home level of care, but are still eligible for Family Care at the non-nursing home level of care. Effective [effective date] you will be entitled to the services in the Non-Nursing Home Family Care Benefit package. Please see page [##] in your Member Handbook for an explanation of the services available to members at the non-nursing home level of care. In some instances, a service that is not on the list may be used as a cost effective substitute for a service that is in the benefit package.

The change in your level of care will cause an automatic review of Forward Health (Medicaid, MA, Title 19) eligibility and could result in a change in your Medicaid eligibility and Family Care enrollment. You can contact income maintenance with questions related to Medicaid at [Telephone].

If you feel the results of the Long Term Care Functional Screen are not accurate, you or your provider have the right to request a re-screening. To request a re-screening, contact [Screen Lead Name], [MCO's] Long Term Care Functional Screen Lead at [Telephone].

If the new screen also results in a non-nursing home level of care, you or your provider have the right to request a State Fair Hearing by calling or sending your appeal to:

Family Care Request for Fair Hearing  
c/o DOA Division of Hearings and Appeals  
505 University Ave. #201  
Madison, WI 53705-5400  
(608) 266-3096

You also have the right to ask [MCO] staff, or someone of your choice, to assist you to write and submit the appeal. Other agencies that are able to advocate on your behalf include:

Family Care Ombudsman

For people under age 60:

Disability Rights Wisconsin  
131 West Wilson Street, Suite 700  
Madison, WI 53703  
800-928-8778

For people 60 years old and older:

Board on Aging and Long Term Care  
1402 Pankratz Street Suite 111  
Madison, WI 53704-4001  
800-815-0015

[Other local advocacy resources]

[Advocacy Agency]

[Address 1]

[Address 2]

[Telephone]

[Advocacy Agency]

[Address 1]

[Address 2]

[Telephone]

You have the right to request and obtain copies of your [MCO] records, free of charge, that are relevant to the appeal by contacting [Member Rights Specialist], the [MCO] Member Specialist at [Telephone].

You will get a separate notice from [MCO] if there will be any change in the services you receive now, and you will have an opportunity to appeal any change.

Please note that you may request a re-screen at any time in the future if your condition changes and you need services that are only available to members at the nursing home level of care. If you have questions or concerns about the potential loss of a service, please contact your Registered Nurse or Social Work Service Coordinator to discuss whether this change will impact your Family Care services.

If you have questions regarding this notification, please contact Evelyn Heikenen, CCCW Member Advocate, or your interdisciplinary team at the appropriate office location. Phone numbers for each [MCO] office are listed below:

[Office, Telephone]

[Office, Telephone]