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**DISTRICT IV**

December 10, 2013

To:

Hon. Mark L. Goodman  
Circuit Court Judge  
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You are hereby notified that the Court has entered the following opinion and order:

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2012AP1614                      State of Wisconsin ex rel. Eric Hendrickson v. Monroe County  
Health and Human Services (L.C. # 2011CV312)

Before Lundsten, Sherman and Kloppenburg, JJ.

Monroe County Department of Health and Human Services appeals an order directing it to notify the Wisconsin Department of Transportation that Eric Hendrickson has complied with a driver safety plan. Based upon our review of the briefs and record, we conclude at conference that this case is appropriate for summary disposition. *See* WIS. STAT. RULE 809.21 (2011-12).<sup>1</sup> We affirm.

The circuit court's order was in the form of a grant of a writ of mandamus. The County argues on appeal that the court erred by granting the writ.

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<sup>1</sup> All references to the Wisconsin Statutes are to the 2011-12 version unless otherwise noted.

The County's first argument appears to be that its employee Gary Nelson, who was supervising Hendrickson's driver safety plan, properly allowed the plan to terminate in March 2010 because Hendrickson "failed to overcome" a status report from November 2009 showing that he was not in compliance with the plan. However, the County does not describe any facts on which we might conclude that Hendrickson failed to satisfy the plan after November 2009. The circuit court's decision contained a detailed description of Hendrickson's treatment record after that point and concluded that he made the required "reasonable progress" toward his treatment goals. The County does not specify any manner in which the circuit court misread the record or reached an erroneous conclusion as to his reasonable progress. Accordingly, the County has not shown that the court erred.

The County's second argument appears to be that Hendrickson was not entitled to writ relief because he had an adequate remedy at law. According to the County, that remedy was an appeal under WIS. ADMIN. CODE § DHS 62.15. However, the County does not state precisely which portion of that rule it believes would apply here. It does not appear that any portion of the rule provides for an appeal if a county fails to report compliance to the department when compliance has occurred. The County has not persuaded us that an administrative appeal under this provision is an available remedy.

The County's third argument is that the order requiring Hendrickson to obtain an assessment and driver safety plan was issued in a La Crosse case, and the La Crosse court "was and is available to address its order and Hendrickson's concerns over administration of the ordered assessment." However, the County does not explain what legal significance it might have in this case that the La Crosse court was "available."

The County's fourth argument is that Hendrickson "can ... begin the assessment process anew." The County appears to be implying that starting the process over would be an adequate remedy. Given the additional expense and delay involved, starting over from scratch is not an adequate remedy.

Finally, the County argues that the circuit court was required to hold an evidentiary hearing before granting the relief it did. This argument fails for multiple reasons. The County does not identify any disputed issue of fact that required evidence, and does not say what evidence it would have submitted at such a hearing. In response, Hendrickson points out that he filed a motion and brief seeking the relief that was granted, but the County never responded to them. The County has not filed a reply brief disputing that account. The County has not convinced us that an evidentiary hearing was necessary.

IT IS ORDERED that the order appealed from is summarily affirmed under WIS. STAT. RULE 809.21.

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*Diane M. Fremgen*  
*Clerk of Court of Appeals*