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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: FCP - 217629

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 25, 2025, under Wis. Admin. Code, §DHS 10.55, to review a decision by Inclusa regarding the Family Care Program (FCP), a hearing was held on April 30, 2025, by telephone.

The issue for determination is whether the agency correctly refused to backdate increased supportive home care hours.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Brook Jaeger  
Inclusa  
3349 Church St Suite 1  
Stevens Point, WI 54481

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 41-year-old resident of Rock County.
2. Petitioner is eligible for the FCP with Inclusa as his managed care organization (MCO). He lives with his wife and children, and his wife is his primary caregiver.

3. Petitioner has diabetes, heart disease, chronic pain, digestive disorders, and anxiety, among other issues. He was first enrolled in the FCP in April, 2023, and he was allowed 25.25 weekly SHC hours as part of his plan.
4. In the spring, 2024, petitioner was seen in the emergency room multiple times. At that point it appeared that his condition was worsening, but no action regarding SHC was taken.
5. In August, 2024, Inclusa documented a request for increased SHC hours. A meeting was held on September 6 to document needs and a task assessment, and the result was a determination by the agency that petitioner actually needed less SHC hours. The plan was to reduce SHC to 17.25 weekly hours.
6. Before the reduction in hours occurred, petitioner was hospitalized in September, 2024. After his release meetings with Inclusa staff and the family led to a reassessment of petitioner's needs. The new service plan was finalized and as of November 8, 2024, SHC was increased to 48 hours weekly.
7. Petitioner then appealed the start date of the increased SHC, seeking to have the increase backdated to April, 2024. The request was denied, and on January 30, 2025, a grievance panel affirmed that the backdated increase was denied.

### 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.

The MCO must develop an Individual Service Plan (ISP) in partnership with the client. Wis. Admin. Code, §DHS 10.44(2)(f). The ISP must reasonably and effectively address all of the client's long-term needs and outcomes to assist the client to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. While the client has input, the MCO does not have to provide all services the client desires if there are less expensive alternatives to achieve the same results. Wis. Admin. Code, §DHS 10.44(1)(f); DHS booklet, Being a Full Partner in Family Care, page 9. ISPs must be reviewed periodically. Admin. Code, §DHS 10.44(j)(5).

Wis. Admin. Code, §DHS 10.55(1) provides that a person may request a fair hearing to contest the denial of eligibility for the program, a cost share and financial eligibility, or the "entitlement" to the FCP. functional eligibility. In addition, the participant must file a grievance with the MCO over any decision, omission, or action of the MCO. The grievance committee shall review and attempt to resolve the dispute. If the dispute is not resolved to the participant's satisfaction, he may then request a hearing with the Division of Hearings and Appeals. Wis. Admin. Code, §DHS 10.55(2).

FCP policies are found primarily in the Department's standard contract with the FCP MCOs. The contract is found on-line at <https://www.dhs.wisconsin.gov/familycare/mcos/fc-fcp-2025-contract.pdf>. Supportive home care is an allowable service.

The issue here is not whether petitioner requires 48 hours per week SHC, but when the change should be effective. First, the request to go back to April, 2024 is denied. The only assessments of petitioner's needs prior to his September, 2024 hospitalization were done by Inclusa, and the one done prior to the September hospitalization determined that he needed only 17.25 hours SHC per week. Petitioner and his

wife testified that they believed he required more hours before then, but they have not offered any medical or professional assessment supporting their belief. Thus the hours that were covered until the case was reassessed in October, 2024 must be upheld, and no backdate can be ordered. The remaining question is the start date of the increased services.

Here SHC was increased because of a determination that petitioner had a significant change in circumstances. If there is a significant change, the MCO must do a reassessment as set forth in the FCP contract, Article V.C.1.b and c. See *Contract*, Article V.F.2.d. Article V.C.1 discusses the need for an assessment and documentation for a new member. In other words, if there is a significant change in circumstances, the MCO must review the change as if it is a new case. Under those procedures, services begin when the plan is completed and signed by the MCO, the member, and the provider. See *Contract*, Article V.C.d – g. There are provisions for immediate authorizations if necessary to ensure health and safety, but there is no suggestion that petitioner was under such an emergency situation. The Inlusa service authorization policy and procedure, found at exhibit 11 of the agency's exhibits, echoes those timelines. See section 4.0 of the document, beginning at page 63 of the exhibit package.

I conclude that the MCO correctly started the increased SHC hours when the service plan was finalized. The request for backdating services must be denied.

### **CONCLUSIONS OF LAW**

The MCO correctly began a new service plan with increased SHC services effective November 8, 2024 following a reassessment after a determination of a significant change in condition. There is no medical or other professional evidence of a change in condition prior to petitioner's September, 2024 hospitalization, and thus increased services cannot be approved for the period before that event.

**THEREFORE, it is** **ORDERED**

That the petition for review is hereby 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**

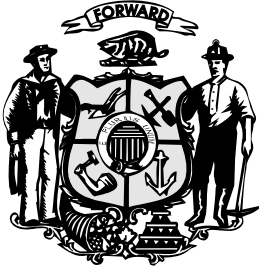
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 Madison,  
Wisconsin, this 5th day of May, 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 May 5, 2025.

Inclusa Inc/Community Link  
Office of Family Care Expansion  
Health Care Access and Accountability