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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 - 217858

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on April 11, 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 May 28, 2025, by telephone.

The issue for determination is whether the agency correctly discontinued coverage of an independent home health nurse.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Jessica Trachte  
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 61-year-old resident of Wood County.
2. Petitioner has bipolar disorder, anxiety, and limited cognition. She resides by herself with no family members residing near her. She is her own legal decision maker, although her sister has power-of-attorney for financial issues.

3. Petitioner is eligible for the FCP with Inclusa as her managed care organization (MCO).
4. Petitioner gets a bi-weekly injection that requires a visit from a nurse; the nurse also assists petitioner with her pill planner. Over the years the nurse has been an independent nurse that currently costs \$85.54 per visit. The current nurse, [REDACTED], has been working with petitioner for approximately ten years but is petitioner's third independent nurse; the first two retired. Petitioner also receives supportive home care (SHC) from an SHC worker.
5. Inclusa has covered the independent nursing visits because it did not have a contracted home health agency in the area. In 2025, however, a home health agency joined Inclusa's network. The new agency, North Shore, would charge \$42.33 per nursing visit.
6. By a notice dated February 13, 2025, Inclusa informed petitioner that the independent nursing service would be discontinued because a home health agency in her network would be able to take over the service. Petitioner's initial reaction was to refuse to allow the North Shore nurse into her residence. She also filed a grievance, but on March 28, 2025 the grievance committee upheld the change. Petitioner appealed, and the independent nursing services have remained in place pending this decision.

### 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(2)(f). 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 can 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, she 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>. Skilled nursing services can be covered when not covered by Medical Assistance. Contract, page 403. However, as with all FCP services, they must be cost effective and delivered through a health and delivery system appropriate to the benefit package. Contract, page 102, Sec. VII.A.1. As an MCO contracted to deliver FCP services, Inclusa has developed written policies describing the types of and provision of services. As seen beginning on page 72 of the Inclusa hearing submission, Inclusa has developed specific policies concerning Skilled Nursing Services in a RAD [Resource Allocation Decision] Companion. Importantly, it provides that independent/private duty nurses may be authorized when no home health agency is available to accept the referral. See RAD Companion page 7 of 15, page 78 of the Inclusa submission.

Inclusa case notes for petitioner's case, beginning at page 100 of its submission, show that the MCO has been attempting to find a home health agency to cover petitioner's case since at least early 2024. Ms. Trachte testified that Inclusa has kept petitioner informed about those efforts, although it appears that when Inclusa finally found North Shore and took the action, petitioner was surprised.

The conclusion to this appeal thus is straightforward. Inclusa, the MCO, is required to provide cost-effective services. It has a policy that, if a home health agency is available to provide nursing services, it will use that agency. It will pay for independent services only if there is no home health agency in the local network. Thus Inclusa was following its policy appropriately when it took the action to discontinue the independent nursing services. Petitioner has cited correctly the FCP provisions about the importance of the member's choice of providers, but the Wisconsin Administrative Code provision cited above requires the MCO to provide less expensive services if they conflict with the member's desired services and can achieve the same results.

Although petitioner trusts Nurse [REDACTED], the service for which she is being paid is to go to petitioner's residence bi-weekly to provide an injection and to help with pill planning. Those are services that any nurse can provide; thus the services provided by North Shore are less expensive and can achieve the same results.

I acknowledge that petitioner's doctor recommends that the best outcome for petitioner would be to continue [REDACTED]'s independent nursing services. However, in the realm of public benefits, sometimes the best outcome must be set aside for the most cost-effective outcome. Here petitioner has a long and trusting relationship with [REDACTED], but the member's refusing to consider another nurse is not a basis for me to reverse the MCO action. As noted, petitioner was able to transition to other nurses at least twice before when prior nurses retired. There is no basis for concluding that she cannot do so again.

Petitioner's sister complained that, in programs such as this one, the bottom line always comes down the dollars. I have been overseeing FCP cases since the program's inception, and I can say with some confidence that that is not always true. However, in this case it is true. The simple fact is that the cost of the nursing visits by the home health agency is less than half of the independent nurse visits. That is a huge difference, and state law mandates fiscal conservatism when necessary. I thus conclude that the MCO's action was correct under FCP rules and policy.

### CONCLUSIONS OF LAW

The MCO's proposed shift to a home health agency to provide bi-weekly medication injections and assistance with pill planning is cost effective and can achieve the same results as the more expensive independent nurse.

**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.

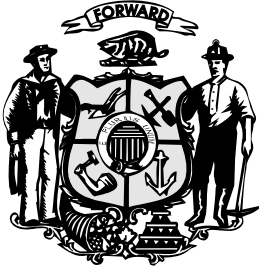
## APPEAL TO COURT

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 2nd day of June, 2025

\s \_\_\_\_\_  
Brian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
5<sup>th</sup> Floor North  
4822 Madison Yards Way  
Madison, WI 53705-5400

Telephone: (608) 266-7709  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 2, 2025.

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