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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FCP - 219093

PRELIMINARY RECITALS

Pursuant to a petition filed July 9, 2025, under Wis. Admin. Code, §DHS 10.55, to review a decision by Community Care regarding the Family Care Program (FCP), a hearing was held on August 20, 2025, by telephone.

The issue for determination is whether the agency correctly denied home-delivered meals.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Deb Dukler
Community Care
205 Bishops Way
Brookfield, WI 53005

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 60-year-old resident of Milwaukee County.
2. Petitioner is eligible for the FCP with Community Care as his managed care organization (MCO). He is paraplegic and diabetic type 2. He receives 66 hours per week supportive home care (SHC). Included in his SHC duties are meal preparation and grocery shopping.

3. In the past petitioner has had home-delivered meals as an FCP service. By a notice dated April 28, 2025, the MCO informed him that the meals were denied because SHC services include meal preparation. Petitioner filed a grievance, but the committee upheld the action by a decision dated June 11, 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.

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). 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, 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 defined in Addendum VI, Benefit Package Service Definitions, at page 413, noting, in particular, section b.ii:

Supportive home care (SHC) is the provision of services to directly assist members with daily living activities and personal needs and to assure adequate functioning and safety in their home and community.

- a. Services include the following:
 - i. Providing support necessary for member safety at home and in the community, including observation and cueing of the member, to ensure that the member safely and appropriately completes activities of daily living and instrumental activities of daily living.
 - ii. Routine housekeeping and cleaning activities performed for a member, consisting of tasks that take place on a daily, weekly, or other regular basis. These tasks may include: washing dishes, doing laundry, dusting, vacuuming, cooking, shopping, cleaning, and similar activities that do not involve hands-on care of the member.
 - iii. Intermittent major household tasks that must be performed seasonally or in response to some natural or other periodic event for reasons of health and safety or the need to assure the member's continued community living....

- b. This service also includes personal care services including;
 - i. Hands-on assistance with activities of daily living such as dressing/undressing; bathing; eating; toileting; assistance with mobility/ambulation/transferring (including the use of a walker, cane, etc.); carrying out professional therapeutic treatment plans; and personal hygiene/grooming, such as care of hair, teeth or dentures. This may also include preparation and cleaning of areas that are used during provision of personal assistance such as the bathroom and kitchen.
 - ii. Direct assistance with instrumental activities, such as meal preparation and serving, medication management and treatments that are normally self-administered, care of eyeglasses or hearing aids, money management, telephone/internet use, personal assistance on the job and in non-employment community activities, and using transportation.

Home-delivered meals are defined as a covered service “provided to members who are unable to prepare or obtain nourishing meals without assistance, including those who may be unable to manage a special diet recommended by their health care provider. Home-delivered meal costs may include the costs associated with the purchase and planning of food, nutrition services, supplies, equipment, labor, and transportation to deliver one or two meals a day.” Contract, page 389.

Here the MCO denied home-delivered meals because there already is coverage for meal preparation in petitioner’s service plan. Petitioner’s SHC coverage includes 66 minutes per week for grocery shopping and 40 minutes per day for meal preparation.

Petitioner’s complaints are that his SHC workers are unable to prepare meals to fit his needs, and that groceries have become too expensive, especially given how his other expenses like rent have increased. MCO staff insinuated that petitioner simply does not like the meals prepared by his workers.

In this end, I believe that petitioner expects more from the Division of Hearings and Appeals than it can offer. My impression is that he would like me to be a mediator negotiating with MCO staff a working meal preparation routine. However, that is not within this office’s authority. This office determines whether the MCO correctly followed FCP policy in its determination. The simple answer is that it did. Home-delivered meals are an available service to members who are unable to obtain meals without assistance. Petitioner has assistance for grocery shopping and meal preparation built into his FCP service plan. In effect, therefore, home-delivered meals would be duplicative of SHC services, and thus the MCO had a solid basis for denying them. Petitioner has every right to work with his FCP staff and caregivers to implement the meal preparation, but the Division of Hearings and Appeals’ authority ends with the finding that SHC meal preparation and home-delivered meals are duplicative.

I note that MCO representatives appeared to be surprised when petitioner stated that he ran out of funds to pay for food in August. That is the sort of issue the FCP staff is on hand to address; it is not a basis for the Division of Hearings and Appeals to order duplicative services.

CONCLUSIONS OF LAW

The MCO correctly denied home-delivered meals because SHC services on petitioner’s service plan include grocery shopping and meal preparation.

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, 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.

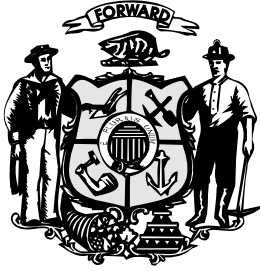
APPEAL TO COURT

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 25th day of August, 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 August 25, 2025.

Community Care Inc.
Office of Family Care Expansion
Health Care Access and Accountability