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

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In the Matter of

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

**DECISION**  
Case #: FCP - 219735

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on August 26, 2025, under Wis. Admin. Code § DHS 10.55, to review a decision by the Inclusa Inc/Community Link regarding Medical Assistance (MA), a hearing was held on October 14, 2025, by telephone.

The issue for determination is whether the petitioner has met her burden to demonstrate that the MCO incorrectly denied her request for community-based day habilitation services.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

Department of Health Services  
201 E. Washington Ave.  
Madison, WI 53703

By: Inclusa

Inclusa Inc/Community Link  
3349 Church St Suite 1  
Stevens Point, WI 54481

**ADMINISTRATIVE LAW JUDGE:**

Jason M. Grace  
Division of Hearings and Appeals

### **FINDINGS OF FACT**

1. Petitioner is a resident of Wisconsin. She is enrolled in the Family Care Program (FCP), with Inlusa her managed care organization (MCO).
2. The petitioner's Long Term Care Functional Screen indicates that due to cognitive and physical limitations associated with diagnoses of intellectual disability, epilepsy, psychosis, mood disorder, and muscle weakness, she needs assistance with all activities of daily living and all instrumental activities of daily living. She currently is under a guardianship.
3. The petitioner lives in a 3-4 bed adult family home (AFH).
4. The MCO funded petitioner's participation in prevocational services from [REDACTED]. She attended seven days per month.
5. In May 2025, the MCO terminated prevocational services. There is no evidence that petitioner timely filed an appeal with the Division of Hearings and Appeals seeking to contest the termination of prevocational services.
6. Following the termination of prevocational services, the petitioner's guardian requested that the MCO fund community-based day habilitation services from [REDACTED]. The request was based on meeting petitioner's long term care outcome of "I want to remain active and busy in order to reduce my symptoms of mental and behavioral health."
7. Inlusa has implemented a Scope of Service for Adult Family Homes. That policy requires the AFH to provide services that include "Activities, Socialization and Access to Community Activities – including facility leisure activities, community activities, information and assistance with accessing, and assistance with socialization with family and other social contacts." See Inlusa Hearing Packet, pgs. 29 -40.
8. Inlusa has also implemented a Department-approved Day Habilitation RAD Companion. See Inlusa Hearing Packet, pgs. 42 -51.
9. The MCO used the Resource Allocation Decision (RAD) process and denied the request for day habilitation services with [REDACTED]. The MCO found the core issue was that petitioner "...needs to be kept busy during the day to keep her mental health symptoms decreased. [REDACTED] has physical and verbal aggression towards staff and house mates when she is not busy. [REDACTED] is diagnosed with anxiety, depression, mood disorder and hallucinations." The MCO reviewed the Day Habilitation RAD Companion and its AFH Scope of Services. The MCO concluded:

You [petitioner] have requested Community-based day services to promote socialization and routine. Community-based day habilitation services may include but are not limited to independent living skills, mobility skills, social/emotional/personal development, communication skills, community access and integration, and Introduction to the meaning of work. Your AFH is active will all these items. Residents go on outing to shop, eat out, visit State Parks and businesses, choir practice at [REDACTED] church, participating in shop at the AFH, bowling, visiting pet stores and farm markets. [REDACTED] is also able to assist around the house with various housekeeping tasks and art/crafts. The services that Community Day Habilitation would provide for [REDACTED] would be a duplication of services as the AFH is already providing these services for her. Plus, your family

assists you in participating with church, summer camps, horses and outings. Therefore, we are denying your request for community-based day services because you are already able to experience and learn socialization and routine from your family and AFH. If you have any changes, please contact IDT to discuss.

RAD Report, Inlusa Hearing Packet, pgs. 15-18.

10. The petitioner sought review of the denial with the MCO's Appeal and Grievance Committee. On August 5, 2025, the MCO upheld the denial on grounds that community outings and socialization support are included within the scope of service provided by her AFH.
11. Petitioner timely filed an appeal with the Division of Hearings and Appeals contesting the denial of community-based day habilitation services.

### **DISCUSSION**

The Family Care Program (FCP) provides appropriate long-term care services for elderly or disabled adults. It is supervised by the Department of Health Services (Department), authorized by Wis. Stat. § 46.286, and comprehensively described in Chapter DHS 10 of the Wisconsin Administrative Code. The Department contracts with managed care organizations (MCOs) throughout the state to provide case management services to members. Case management services include the development of individual service plans (ISPs) and the authorization of allowable and appropriate long term care services. Wis. Admin. Code §DHS 10.44(f). The ISP must reasonably and effectively address all of the FCP recipient's long-term needs and outcomes, assist the recipient to be as self-reliant and autonomous as possible, and be cost effective when compared to alternative services or supports that could meet the same needs and achieve similar outcomes. *Id.*

The contracts between the Department and the individual MCOs require MCOs to determine appropriate long term care services by engaging in a "member-centered planning process" and, more specifically, by applying the "Resource Allocation Decision" (RAD) method. See Wisconsin Department of Health Services, Division of Medicaid Services Family Care Contract ("FCP Contract"), Article V, Sec. K (issued January 1, 2025) (available online at: <https://www.dhs.wisconsin.gov/familycare/mcos/fc-fcp-2025-contract.pdf>); see also OFCE Memo, Issued 6/26/2013 (Revised 02/2024) available on-line at <https://www.dhs.wisconsin.gov/familycare/mcos/communication/ta13-02.pdf>. MCOs may develop service authorization guidelines for use with the RAD. Such guidelines must be approved by the Department. *FCP Contract*, Article V., Sec. K.1.a.

Regardless of the particular service authorization policy utilized, the MCO is responsible for covering services as part of the FCP benefit package that cost-effectively addresses a member's diagnoses, achieve appropriate growth and development, maintain and regain functional capacity, affords access to the benefits of the community, and achieve person-centered goals. *FCP Contract*, Article VII, Sec. A., pg. 102. The MCO shall not deny a service that is reasonable and necessary, and in an amount, scope, and duration needed to cost-effectively support the member's long-term care outcomes. *FCP Contract*, Article V, Sec.K 2., pg. 87. 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).

The issue in this case is the denial of petitioner's request for community-based day habilitation services. Such services are included in the FCP benefit package. See *FCP Contract*, Addendum VI.A.14, pg. 387. A noted limitation is that "[s]ervices under a waiver service category may not duplicate any service

provided under another waiver service category or through the Medicaid State Plan.” *FCP Contract*, Addendum VI,A, pg. 380.

Inclusa has implemented a Scope of Service for Adult Family Homes. That policy requires the AFH to provide services that include “Activities, Socialization and Access to Community Activities – including facility leisure activities, community activities, information and assistance with accessing, and assistance with socialization with family and other social contacts.” See Inclusa Hearing Packet, pgs. 29 -40.

Inclusa has also implemented a Department-approved Day Habilitation RAD Companion. That companion provides the following, in part:

...

Day Habilitation Services: Defined by Family Care (FC) contract. Provides activities and supports to foster the acquisition of generalized skills and opportunities for the member to actively participate in integrated community-based activities that build on the member’s interests, preferences, gifts, and strengths. Day habilitation reflects the member’s personcentered goals regarding community connections and involvement. This service promotes maximum participation in integrated community life while facilitating meaningful relationships, friendships, and social networks with members of the broader community who share similar interests and goals for community participation. Services are aimed at supporting members to reach the highest level of independence and, where possible, reducing or eliminating the need for paid supports to engage in personally meaningful community activities. Services provided must be consistent with the member’s member centered plan (MCP).

...

Day habilitation services for adults includes working with members in a group setting (small or large) with program goals that may include, but are not limited to, activities of daily living and community living. Day habilitation services shall include at least one of the following:

- Independent living skills
  - o Financial literacy
  - o Safety and situational awareness
  - o Technology training and exploration
- Mobility skills
- Social, emotional, and personal development
  - o Self-awareness and self-advocacy
  - o Problem solving and critical thinking
- Communication skills
  - o Peer to peer sharing
- Community access/Integration
  - o Community involvement and volunteering with non-profit organizations as a means to explore interest areas, to become comfortable with working alongside people without disabilities, or to develop general skills helpful for integrated employment

- o Tours and information gathering at various community venues (civic centers, libraries, recreation facilities, etc.)

- Introduction to the meaning of work

- o Tours and information gathering of area business'

- o Volunteering o Discovery/interest identifying workbooks and/or inventories

- o Discover local communities thru virtual tours of business and informational interviews of local community members

...

See Inclusive Hearing Packet, pgs. 42 -51.

It is a well-established principle that a moving party generally has the burden of proof, especially in administrative proceedings. By seeking to add a service, i.e., community-based day habilitation services, petitioner is the moving party and must prove by a preponderance of evidence that the MCO erred in its denial. For the following reasons, I find that petitioner has not met her burden.

The petitioner's request for community-based day habilitation services follows the May 2025 termination of her participation in a prevocational program. There is no evidence that petitioner filed a timely appeal of the termination of that program with the Division of Hearings and Appeals. Therefore, that issue is not before me. The petitioner had been attending prevocational services with [REDACTED] seven times per month. [REDACTED] also provides the community-based day habilitation program that is at issue in this case. Petitioner's sister set forth the following justification for the day habilitation program:

... it is critical for ...[petitioner's] overall well-being that she have regular, structured opportunities to engage meaningfully with the community outside her residence. ... [[w]ithout access to regular day programming, ...[petitioner] is isolated, understimulated, and emotionally distressed. Her current lack of outside engagement is detrimental to her mental health and quality of life.... [REDACTED] provides a supportive and structured environment where ... [petitioner] can interact with peers, practice communication and life skills, and simply be in the world – in a way that is safe, meaningful, and dignified. ...

Letter from [REDACTED] (petitioner's sister), dated July 26, 2025. A letter from petitioner's mental health provider further indicated that day programs like [REDACTED] was medically necessary for the petitioner. See letter from [REDACTED], dated August 4, 2025. That letter provided the following information:

...I have had the opportunity to see how structured, supportive environments directly contribute to ... [petitioner's] overall mental health, stability, and quality of life.

... While she has a supportive home environment, it is not sufficient to meet her ongoing social, emotional, and developmental needs. [REDACTED] is a safe, stimulating space where she can engage in therapeutic activities, establish routine, and build meaningful social connections—all of which are crucial for mental well-being and prevention of deterioration.

These program are essential interventions that promote skill-building, reduce behavioral health crises, and alleviate caregiver burnout. Without consistent access to such structured support, individuals like ... [petitioner] are at a higher risk for isolation, depression, anxiety, and regression in adaptive functioning. ...

Id.

The MCO's position is that under its scope of services the AFH where petitioner is residing is responsible for providing in-home activities and community outings. This would address the long-term care outcome that the day habilitation request had been based on during the RAD review. The long-term care outcome at issue was "I want to remain active and busy in order to reduce my symptoms of mental and behavioral health." The representative for the MCO indicated at hearing that the letter from the mental health provider set forth above was not submitted for its review during the RAD process. It was further indicated that if the request for day habilitation services was now being sought on the additional grounds reflected in that letter the MCO would need to conduct a RAD review to explore options. This would include consideration of mental health counseling and consultative clinical and therapeutic services to support the AFH in carrying out petitioner's support plan and improve independence and inclusion in the community. The position of the MCO was found persuasive.

It is my understanding that prevocational programming was affording petitioner more than training for community integrated employment. The byproduct of that program was that it was also providing her opportunities for community and social interaction and mental stimulation and engagement. When that program ended, it left a void that needed to be filled. I can understand why the petitioner, her family, and the mental health provider would recommend a day habilitation program. Day habilitation programming covers a broad spectrum of services. It can include independent living skills; mobility skills; social, emotional, and personal development; communication skills; community access/Integration; and introduction to the meaning of work.

My review is limited to the issue that was submitted to the MCO and was in turn subject to the RAD process. The day habilitation program was requested to meet petitioner's long-term care outcome of "I want to remain active and busy in order to reduce my symptoms of mental and behavioral health." It was requested to keep petitioner busy and active. Under the MCO's scope of services, it is the AFH who is responsible for activities, socialization, and access to community activities. The MCO compelling argued that day habilitation programming would amount to an impermissible duplication of services when sought for the specific purpose of keeping petitioner active and busy, as was the case here. While such demands may not have been placed on the AFH when petitioner previously was participating in prevocational programming, or at least to extent now required, the scope of services provided by the MCO indicates that the AFH is ultimately responsible for addressing that care outcome. I do not have evidence in the record that indicates demands have been made on the AFH and denied or that the contract with petitioner's AFH exempts or limits such services in this case. Based on the record before me, the petitioner has not met her burden to demonstrate that the MCO incorrectly denied her request for community-based day habilitation services.

Finally, as noted by the MCO, petitioner and her guardian are free to request additional services to address other long term care outcomes and needs, such as those further identified in the letter from her mental health provider. Moreover, day habilitation programming can also be requested and provided for purposes that do not fall within the AFH's scope of services.

### **CONCLUSIONS OF LAW**

The petitioner has not met her burden to demonstrate that the MCO incorrectly denied her request for community-based day habilitation services.

**THEREFORE, it is**

**ORDERED**

That petitioner's appeal is 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.

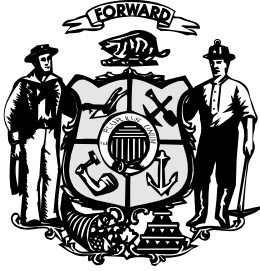
**APPEAL TO COURT**

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, 201 E. Washington Ave., **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 24th day of November, 2025

\s \_\_\_\_\_  
Jason M. Grace  
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 November 24, 2025.

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