



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: FCP - 219708

PRELIMINARY RECITALS

Pursuant to a petition filed August 25, 2025, under Wis. Admin. Code, §DHS 10.55, to review a decision by Lakeland Care regarding the Family Care Program (FCP), a hearing was held on February 12, 2026, by telephone. Hearings set for October 8, October 29, November 26, December 3, 2025, January 8, and January 15, 2026 were rescheduled at the petitioner's request.

The issue for determination is whether petitioner met a nursing home level of care from May 1 to September 30, 2025.

PARTIES IN INTEREST:

Petitioner:

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

Petitioner's Representative:

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

Respondent:

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

By: Alexandra Navis
Lakeland Care
3415 Custer St. – Suite C
Manitowoc, WI 54220-4356

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Brown County.
2. Petitioner is eligible for the FCP with Lakeland Care as her managed care organization (MCO). She had two strokes in 2023, and on October 2, 2024, she had an accident in her apartment. She was hospitalized and then transferred to [REDACTED], a skilled nursing facility (SNF). She has remained there ever since.
3. In December, 2024, SNF staff reported that petitioner met her therapy goals and was largely independent. Discharge was discussed, but petitioner demurred because she did not believe she could handle getting to the second-floor entrance to her apartment along with concerns about her ability to do her own self-cares. Lakeland staff informed petitioner that the MCO would continue to cover the SNF cost until April 30, 2025, to allow petitioner to prepare for returning to community placement.
4. In March, 2025, Lakeland staff received reports from the [REDACTED] Nursing Director that petitioner did her cares independently and refused assistance. In April, Lakeland staff continued to attempt to work out a discharge plan, but petitioner refused to leave. As previously agreed, Lakeland stopped paying SNF charges effective May 1, 2025.
5. A grievance was conducted. By a notice dated June 10, 2025, Lakeland confirmed that SNF funding was discontinued. Petitioner filed this appeal on August 25, 2025. Benefits were not continued pending this appeal.
6. On April 24, 2025, a physician and attending nurse signed orders confirming that petitioner continues to need care at the SNF level. See petitioner's Exhibit A. The orders included a number of active issues requiring caregiver intervention. The orders were not made available to Lakeland staff when signed, and Lakeland staff were unaware of them until they were submitted by petitioner for the hearing.
7. In October, 2025, petitioner was transferred to a new Lakeland care team. A new assessment was completed, and petitioner was found to meet the SNF care level. Lakeland began to cover petitioner's SNF costs again effective October 1, 2025. Petitioner did not have a substantial worsening in her condition between April and October, 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.

Wis. Admin. Code, §DHS 10.33(2) provides that an FCP applicant must have a functional capacity level of "nursing home" or "non-nursing home." If the person meets the nursing home level, she is eligible for full services through a managed care organization (MCO), including Medical Assistance (MA). Wis. Admin. Code, §DHS 10.36(1)(a). If the person meets the non-nursing home level, she is eligible for full services only if she is in need of adult protective services or she is financially eligible for MA. Wis. Admin. Code, §DHS 10.36(1)(b). A person eligible under the non-nursing home level is eligible for less FCP services.

This is an unusual case in that it is undisputed that petitioner meets a nursing home level of care for FCP eligibility purposes. Functional screens done for her in March, 2025 confirmed that she met the FCP eligibility requirement. The issue is whether petitioner needed to be housed at a nursing home.

Before ruling, I am going to point to two issues that need to be addressed. First, it is clear to me that when Lakeland staff made the decision to end SNF funding, they absolutely made the correct call. Reports from ██████████ staff were that petitioner was independent and actually refused assistance. Further, petitioner refused to cooperate with Lakeland staff, and she failed to take appropriate action for potential discharge despite being given four months to do so.

Second, petitioner’s primary position during the hearing was that Lakeland erred because petitioner was unable to return to her second-floor apartment due to a steep staircase and other issues with the residence. The argument misses the point. Whether petitioner needed to remain in the nursing home did not depend on her ability to function in the specific apartment to which she chose to return; the issue was whether petitioner was capable of living in any suitable community placement. In December, 2024, Lakeland staff suggested moving to a more suitable community placement, and petitioner refused to consider doing so. The issue of SNF payment to the nursing home depends on petitioner’s ability to live in the community, not her ability to live in a specific hard-to-access apartment.

Those two points being made, I will order that petitioner’s stay at ██████████ be covered for two reasons. First, the Physician Orders dated late April, 2025 clearly state that petitioner was eligible to remain in the nursing home. Why those orders were never provided to Lakeland is a mystery, but I cannot disregard that they exist. However, the orders on their own do not convince me. There is no testimony from the doctor (in fact, as I write this, I have no idea who the doctor is), and for all I know, the nurse who signed the order is the same one that complained that petitioner did not need to be in the nursing home.

The second reason is the most compelling. In October, 2025, Lakeland’s team assessed petitioner and concluded that she met the SNF requirements, and Lakeland began paying for petitioner’s stay again. The problem from Lakeland’s standpoint is that there is no stated factual reason for the change. There is no record of petitioner suffering a decline in functioning or a new debilitating condition that occurred between April and October, 2025. Petitioner and her sister both testified honestly that she had some decline in functioning during that time, but it was not a substantial one. Thus I am left with a March functional screen showing an SNF level of care, an April Physician’s Order detailing nursing home care needs, and an October assessment that she can remain at the SNF with FCP funding.

I conclude, therefore, that Lakeland should cover the SNF services from May 1 through September 30, 2025.

CONCLUSIONS OF LAW

Petitioner needed SNF funding for the period May 1 through September 30, 2025.

THEREFORE, it is **ORDERED**

That the matter be remanded to the agency with instructions to reinstate SNF funding for petitioner for the period May 1 through September 30, 2025. It shall do so within ten days of this decision.

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.

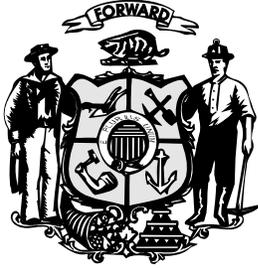
APPEAL TO COURT

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, 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 17th day of February, 2026

\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 February 17, 2026.

Lakeland Care Inc
Office of Family Care Expansion
Health Care Access and Accountability
[REDACTED]