



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
████████████████████
████████████████████

DECISION
Case #: FCP - 221117

PRELIMINARY RECITALS

Pursuant to a petition filed on December 12, 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 January 28, 2026, by telephone.

The issue for determination is whether Inclusa correctly denied Petitioner's request for Family Care authorization of residential services in a residential care apartment complex.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

██████████
████████████████████
████████████████████

Respondent:

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

By: Rachel Kampa
Inclusa Inc/Community Link
3349 Church St Suite 1
Stevens Point, WI 54481

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 93-year-old resident of Monroe County who is enrolled in Family Care with Inclusa serving as her managed care organization (MCO).

2. Petitioner presently resides at [REDACTED] RCAC facility in Sparta, Wisconsin. (Testimony of Petitioner and Petitioner's daughter, KS)
3. Petitioner moved to [REDACTED] due to her history of UTIs and antibiotic mismanagement. She and her family decided to move there to best meet her needs. (Testimony of KS, Exhibit R-3)
4. Petitioner's medical diagnoses include hypothyroidism, esophageal reflux, hypercholesterolemia, impaired fasting glucose, hypertension, heart murmur, stenosis aortic valve acquired, arthroplasty total hip replacement, enthesopathy hip, trochanteric bursitis left and right hip, osteopenia, pain low back, paresthesia feet, recurrent cystitis, astigmatism, cataract senile nuclear sclerosis, dermatitis eczematoid, hyperopia, presbyopia, unspecified glaucoma, dizziness. (See Exhibit R-7)
5. Petitioner suffers from dizziness, confusion (medication management issue), recurrent urinary tract infections, skin conditions, and is a fall risk. (Testimony of KS)
6. Petitioner requires assistance with overnight toileting. Petitioner has unsuccessfully trialed the use of a bedside commode. Petitioner's family has attempted to utilize a medical bracelet to address her fall risk, but petitioner has experienced three instances in 2025 where she needed assistance but failed to activate the communication device. (Testimony of KS)
7. [REDACTED] staff assist Petitioner to/from the bathroom at night, and Petitioner is able to clean herself using a bidet. She is unsteady getting to the bathroom, and often has difficulty cleaning herself using tissue paper after urination and defecation. (Testimony of KS, RCAC notes included with Exhibit P-1)
8. Petitioner has struggled with medication management, taking pain medication (Ibuprofen) after being instructed to NOT use that medication, has taken old prescription medications, and taken stool softeners without adequate water intake. (Testimony of KS)
9. Petitioner attends PT/OT three times each week.
10. On or about October 2, 2025, Petitioner requested Family Care authorization for residential services at [REDACTED] RCAC. (Exhibit R-3)
11. On October 14, 2025, the MCO issued a Notice of Adverse Benefit Determination which advised Petitioner that the MCO had denied her request for residential services and concluded that she "does not need the service or level of service or support to support [her] outcome." The notice also included the following detailed explanation:

Per our conversation with you and your daughter on 10/13/25, we discussed the ability to meet your health and safety needs in a lesser restrictive setting. During that conversation, we discussed alternative options to meet those needs outside of the Residential Care Apartment Complex (RCAC) such as supportive home care, self-directed supports, transportation, and community supported living. We feel that the RCAC will limit your personal independence and enable you to rely on staff/supports to complete cares that you are physically able to complete on your own. We discussed your ability to take your PRN medication independently, you have a good understanding of your current medication regimen, and have the ability to be compliant with your medications. You are able to make a simple meal, complete activities of daily living with adaptive aids such as a sock aid or bidet. Your IADLs such as transportation can be funded by Inlusa or natural supports. At this time, your IDT team has decided to approve 60 days of payment

towards your placement at the RCAC will be authorized beginning 10/13/25 to allow time for you and natural supports to look for independent housing and IDT to coordinate services in the apartment.

(Exhibit R-4)

12. Long Term Care Functional Screens (LTCFS) were completed on August 19, 2025 and November 6, 2025. which documented Petitioner's various needs for assistance. (Exhibits R-6 and R-7)
13. On November 7, 2025, Petitioner requested an internal appeal of the denial of residential services. On December 5, 2025, the MCO upheld the denial finding that "The majority of the committee votes to uphold and believes the Inclusa IDT offered to explore alternative options (listed above in the alternative options section) with the member and family but was not able to do so because the member moved into the RCAC before those options were attempted. Community support would be the least restrictive and most cost-effective setting for the member. Member (████) expresses happiness with her current needs being met at the RCAC. █████ and family expressed that IDT has not listened to her needs and has dismissed concerns. The amount of daily cost mentioned by Inclusa (for the RCAC) does not include the cost share paid by member." (Exhibit R-2)
14. On December 12, 2025, Petitioner timely filed an appeal with the DOA Division of Hearings and Appeals.

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, 2024, with October and November amendments) (available online at: <https://www.dhs.wisconsin.gov/familycare/mcos/fc-fcp-2024-contract-nov-amend.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>.

In other words, rather than requiring MCOs to develop and apply clear coverage criteria for services, DHS requires MCOs to use a particular process in considering whether to authorize services. MCOs may, however, 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 included in the FCP benefit

package when those services cost-effectively address a member's diagnosis and assist a member in achieving appropriate growth and development, maintaining and regaining functional capacity, accessing the benefits of the community, and achieving person-centered goals. *FCP Contract*, Article VII. 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.

The issue here is whether the MCO appropriately denied Petitioner's request for residential services at a residential care apartment complex (RCAC).

The MCO has implemented a Department-approved Supplementary RAD guideline for Residential Services ("MCO Guideline"). That guideline, along with the MCO's contract with the State, provide that residential care services may be authorized only when a member's long-term care outcomes cannot be cost-effectively supported in the member's home, or when a member's health and safety cannot be adequately safe guarded in the member's home, or when residential care services are a cost-effective option for meeting the member's long-term care needs. See Resp. Ex. 9 and *FCP Contract*, Addendum VI, Para. 17. The MCO Guideline also states that "the least restrictive setting" must always be pursued though it provides no definition of the term least restrictive.

The MCO Guideline directs care teams to consider various factors when they receive a request for residential services including whether the identified needs for support match what is noted in the LTCFS. In addition, the MCO Guideline observes that a primary cause for consideration of residential services is when their needs cannot be met in an independent living setting, even with supports in place. To assess whether needs can be met with supports, the Guideline suggest that care teams may consider "a sketch of a Task Assessment" as a "helpful tool to assess the need for residential." *Id.* at p. 11. The MCO Guideline further observes that residential services may be requested when a family member believes that a member cannot be left home alone and suggests that, in such instances, the care team identify "the member's acuity, Cost Acuity Ratio (CAR), and community probability score." *Id.* at p. 12.

The MCO employed the RAD process and, based on documentation offered by the MCO including the Notice of Adverse Benefit Determination, found that the petitioner did not need residential-level services. The MCO reviewed petitioner's LTCFSs and medical documentation related to her PT/OT services and observed Petitioner prior to reaching its determination. (Testimony of RK)

At hearing, the MCO argued that placement in an independent apartment with supportive home care would be more effective and more cost-effective than a RCAC, and argued that services costs considered included: Independent Home/Apt \$300/month, Apt/Home with Services \$20/hour, Community Supported Living based on rate - RCAC \$99/day. (see Exhibit R-3). The Petitioner and her representatives countered that the supportive home care numbers are vague, and do not specify whether or not they would include overnight cares, which is their main concern.

I did not find in the record any type of Task Assessment, which may have provided a basis for the MCO's conclusions. The Petitioner's daughter testified that Petitioner can be an unreliable narrator, which presents obvious problems where, such as here, a decision was initially based upon a LTCFS completed without her daughter's attendance. And, despite the credible assertions by Petitioner's daughter that Petitioner needs standby assistance and supervision in light of her dizziness, history of falls, and UTI history, the MCO did not offer "the member's acuity, Cost Acuity Ratio (CAR), and community probability score" -- all of which are referenced in the MCO Guideline. And, perhaps most importantly, the MCO offered no explanation for the November LTCFS note indicating, "[d]ue to physical limitations including osteopenia, paresthesia, low back pain, hip enthesopathy, dizziness, and vision impairment resulting in pain, balance concerns (falls risk), and limited ROM, [Petitioner] needs assistance with some

ADLs and IADLs, as well as overnight care. Without her current supports and services, [Petitioner] would be at imminent risk of nursing home placement within 6-8 weeks.” Exhibit R-7.

Petitioner’s daughter and her RCAC social worker all appeared at hearing on Petitioner’s behalf and offered credible, detailed testimony which was largely consistent with the Long Term Care Functional Screen completed in November 2025. Their collective testimony and the LTCFS indicated that the 93-year-old Petitioner’s frailty has increased recently, and that her direct care needs and need for standby assistance and supervision have therefore also increased. Petitioner also submitted correspondence from her Urology PA, who wrote, “to strongly advise against downgrading her care to independent living with episodic home health support.” Exhibit P-1. She continued,

[Petitioner] has a documented history of recurrent urinary tract infections. In patients of her age and health status, these infections are not minor ailments; they present a high risk for falls, systemic infection, hospitalization, delirium, and overall physical decline.

Since residing in her current Assisted Living environment, we have seen a stabilization in her urologic health. In the year prior to moving to assisted living, she had four urinary infections. Since moving to assisted living, she has had none. This success is directly attributable to the specific, round-the-clock interventions provided by the facility staff – interventions that cannot be replicated by independent living with visiting staff who are not present 24/7.

Id.

Based on that credible testimony, medical documentation, RCAC notes (related to overnight cares) and the MCO’s LTCFS, I conclude that Petitioner has established that her request to reside in a RCAC is appropriate and necessary. I am not persuaded that Petitioner’s significant needs can be met in an independent living environment with supportive home care or that a more cost-effective option exists that has not been pursued. Thus, I am remanding the matter to the MCO to rescind its October 2025 notice of adverse benefit determination and to approve the requested residential placement at a RCAC.

CONCLUSIONS OF LAW

- (1) The MCO did not properly deny Petitioner’s request for residential services at a RCAC.
- (2) A preponderance of the evidence in the record demonstrated that Petitioner’s needs cannot be met via independent living with supportive home care.

THEREFORE, it is

ORDERED

That this matter is remanded to Inlusa with instructions to rescind the October 14, 2025, notice of adverse benefit determination and authorize Petitioner’s requested RCAC placement. Inlusa shall comply with these instructions within ten days of the date 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.

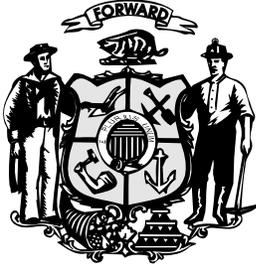
APPEAL TO COURT

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 23rd day of February, 2026

\s _____
Peter McCombs
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 23, 2026.

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