



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
██████████
██████████

DECISION
Case #: FCP - 221622

PRELIMINARY RECITALS

Pursuant to a petition filed January 20, 2026, under Wis. Admin. Code, §DHS 10.55, to review a decision by MY Choice Family Care to discontinue a service under the Family Care Program (FCP), a hearing was held on March 11, 2026, by telephone.

The issue for determination is whether petitioner should remain in assisted living.

PARTIES IN INTEREST:

Petitioner:

██████████
██████████
██████████

Petitioner's Representative:

Atty. Mary Colleen Bradley
Disability Rights Wisconsin
1502 W Broadway, Suite 201
Monona, WI 53713

Respondent:

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

By: Lexi Barta
MY Choice Family Care
10201 Innovation Dr, Suite 100
Wauwatosa, WI 53226

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 49-year-old resident of Dane County.
2. Petitioner has a history of traumatic brain injury with loss of short-term memory, PTSD, bipolar, depression, and chronic pain. He is eligible for the FCP based on the physical disability and developmental disability target groups. He also meets the severe and persistent mental illness

target group although that target group is not covered by the FCP. He is at the Intermediate Care Facility level of care. My Choice Family Care is his managed care organization (MCO).

3. Petitioner resides at [REDACTED], a 3-4 bed adult family home (AFH). [REDACTED] staff report that petitioner is independent in activities of daily living, and that staff primarily assist him with tasks such as meal preparation, laundry, and chores. He continues to have memory problems, but has not needed reminders to take his medications. He manages his own finances and uses a phone independently. He gets mental health treatment and assistance through Comprehensive Community Services (CCS).
4. In 2025 My Choice staff raised the possibility of petitioner moving from the AFH to a private apartment. MCO staff and petitioner's CCS service facilitator began to work with him to look into possible apartments, but in late 2025 petitioner indicated that he desired to stay at the AFH.
5. By a notice dated November 21, 2025, the MCO informed petitioner that his residential services would be discontinued effective January 3, 2026, because he no longer needs that level of support. Petitioner filed a grievance, but the committee upheld the determination on January 7, 2026. Petitioner filed this appeal, and the service has 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(1)(f); DHS booklet, Being a Full Partner in Family Care, page 9. 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).

The FCP is operated primarily under the provisions of the contract between the Department and the MCO, found on-line at dhs.wisconsin.gov/familycare/mcos/fc-fcp-2026-contract.pdf. The 2026 contract language is the same as the 2025 contract. Addendum VI defines services under the FCP. Residential services are defined at number 21 of the addendum. They can be authorized only:

- i. When members' long-term care outcomes cannot be cost effectively supported in the member's home, or when members' health and safety cannot be adequately safe-guarded in the member's home; or
- ii. When residential care services are a cost-effective option for meeting that member's long-term care needs.

Wis. Admin. Code, §DHS 10.44 (2)(e), provides that the MCO must assess and identify long-term care outcomes that are consistent with the values and preferences of the enrollee, including the following:

- a. Safety.
- b. Best possible health.
- c. Self-determination of daily routine, services, activities and living situation.
- d. Privacy.
- e. Respect.
- f. Independence.
- g. Social roles and ties to family, friends and community.
- h. Educational and vocational activities.
- i. Desired level and type of participation in community life.
- j. Spiritual needs and desired participation in religious activities.

Petitioner prefers to stay in the AFH. He testified that he is concerned about his forgetfulness, and he fears that he will be isolated in a private apartment. In the end, I find the testimony of Greg Koehler, petitioner's CCS service facilitator, to be the evidence that tilts the decision. He testified about petitioner's poor memory, how he misses appointments even while at the structured AFH, and that he struggles with directions. He feels that petitioner could be exploited if he was on his own, and that he could easily get lost if he left the apartment on his own. He left his prior apartment because it was not safe, although at that time he did not have supportive home care assistance that My Choice would provide. Given that the counselor who directly deals with petitioner has concerns about petitioner moving out of the AFH, I conclude that the residential service should continue.

CONCLUSIONS OF LAW

Although petitioner now is independent in most activities, his mental issues make it potentially unsafe for him to leave his current residential placement.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to continue petitioner's placement at his current AFH; it should reverse the proposed move to a different setting within 10 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.

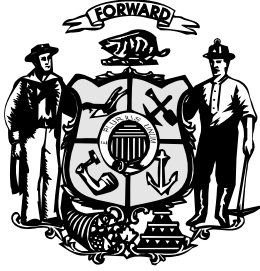
APPEAL TO COURT

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 19th day of March, 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 March 19, 2026.

MY Choice Family Care
Office of Family Care Expansion
Health Care Access and Accountability
Attorney Mary Colleen Bradley