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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: FCP - 220220

PRELIMINARY RECITALS

Pursuant to a petition filed on September 29, 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 February 3, 2026, by telephone.

The issue for determination is whether the agency erred in its denial of the requested day care services.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Petitioner's Representative:

Attorney 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: J. Trachte

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

ADMINISTRATIVE LAW JUDGE:

John Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Marathon County.

2. Petitioner is enrolled in the Family Care Program (“FCP”).
3. Petitioner was living at home prior to January 2025. She was attending day services while living at home.
4. In January 2025 petitioner was hospitalized with medical issues.
5. She was later discharged to a skilled nursing facility.
6. Petitioner requested a residential placement and funding which was approved.
7. In May 2025 petitioner moved to an adult family home (“AFH”).
8. On 7/22/25 petitioner requested funding for adult day care during the day.
9. The FCP agency denied the request by notice dated 8/4/25.
10. Petitioner filed an internal agency grievance and the Inclusa Grievance Committee sustained the denial by notice dated 9/9/25.
11. Petitioner appealed to DHA.

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 care 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.

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

...

The provision of services for part of a day in a non residential group setting to adults who need an enriched social or health supportive experience or who need assistance with activities of daily living, supervision, and/or protection. Services may include personal care and supervision, light meals, medical care, and transportation to and from the adult day care center site. Transportation between the member's place of residence and the adult day care center may be provided as a component of adult day care services. The cost of this transportation is included in the rate paid to providers of adult day care services. Meals provided as part of adult day care may not constitute a "full nutritional regimen" (3 meals per day).

See Inclusa Hearing Packet.

Under the scope of services to be provided by the Adult Family Home, there is considerable overlap with the day care definition. An AFH is obligated to meet needs of a resident in itemized areas under the AFH scope of services which include:

- *Supervision – adequate, qualified staff to meet the scheduled and unscheduled needs of Enrollees and to maintain Enrollee records.*
- *Personal Care, Assistance with Activities of Daily Living and Daily Living Skills Training.*
- *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.*
- *Health Monitoring – including coordination of medical appointments, accompanying Enrollees to medical service when necessary and keeping a record of medical appointments, reports and recommendations.*
- *Medication Management – includes proper storage of medications; preparation of a medication organization or reminder system; assessment of the effectiveness of medications; monitoring for side effects, negative reactions and drug interactions; and delegation and supervision of medication administration.*

* * *

- *Transportation – Provider will provide all regular and routine transportation for Enrollee. Regular and routine is defined for each Enrollee in their Member Centered Plan. It is to include transportation to all medical appointments, social/recreation activities, religious services, and day service/prevocational training/employment for the Enrollee. Provider should coordinate with natural supports for transportation whenever possible and appropriate to the Enrollee's needs.*

See Inlusa Hearing Packet.

I have reviewed all the submitted documentary exhibits and the hearing audio recording.

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. The services outlined in the scope are part of the rate currently paid to the AFH. This would address the long-term care outcome that the day care request had been based on during the RAD review. The MCO also believes that it is necessary for the petitioner to adjust to her new residence and to have the FCP team reach an understanding of how best to support petitioner and identify engagement opportunities she can access. The position of the MCO is found persuasive.

It is a well-established principle that a moving party generally has the burden of proof, especially in administrative proceedings. *State v. Hanson*, 295 N.W.2d 209, 98 Wis. 2d 80 (Wis. App. 1980). The court in *Hanson* stated that the policy behind this principle is to assign the burden to the party seeking to change a present state of affairs. In this case, the burden is on the petitioner to demonstrate that the request should have been granted.

Petitioner argued that day care is greatly beneficial and that the AFH cannot do nearly as good a job meeting the desired outcomes. Petitioner will have more opportunities for socialization and community involvement through the day care program. I do not doubt any of this. But what is beneficial, better, or more must be balanced with the recognition that this is a public benefit program with cost-effectiveness as a primary tenet. Everything that might be more helpful or more beneficial cannot and need not be provided. On this record, I am not convinced by the preponderance of evidence that the request should have been granted.

Under the MCO's scope of services, it is the AFH who is responsible for activities, socialization, and access to community activities. While such demands may not have been placed on the AFH to the extent now required, the scope of services provided by the MCO indicates that the AFH is ultimately responsible for addressing that care outcome. It may be that this AFH is not the best fit for petitioner.

CONCLUSIONS OF LAW

The FCP agency did not err in its denial of the request for day care services.

THEREFORE, it is

ORDERED

That this 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, 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.

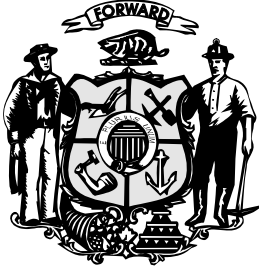
APPEAL TO COURT

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 _____
John Tedesco
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.

Inclusa Inc/Community Link
Office of Family Care Expansion
Health Care Access and Accountability
Attorney Mary Colleen Bradley