



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: FCP - 221947

PRELIMINARY RECITALS

Pursuant to a petition filed February 12, 2026, under Wis. Admin. Code, §DHS 10.55, to review a decision by Lakeland Care to deny a service under the Family Care Program (FCP), a hearing was held on March 18, 2026, by telephone.

The issue for determination is whether petitioner requires residential placement.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Carmen Lord
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 [REDACTED] resident of [REDACTED].
2. Petitioner has a history of [REDACTED], with a [REDACTED]. He enrolled in the FCP in October, 2023, with Lakeland Care as his managed care organization

(MCO), following his mother's death. He continues to reside in the condominium that he shared with his mother. He can do his own activities of daily living (ADLs) but sometimes needs reminders.

3. Through Lakeland petitioner gets transportation, medicine management, meal preparation, prompting for personal hygiene, and supportive home care through Community Living Connections (CLC). A ring camera is installed at his door so that comings and goings can be observed.
4. In August, 2025, petitioner's guardian requested that petitioner be placed in a residence with 24-hour care, such as an adult family home. Lakeland staff noted that petitioner did not want to move from his home. Lakeland staff denied the request but agreed to increase SHC visits to twice per day, and meal preparation to three times per week. Lakeland also proposed increasing security at petitioner's home.
5. By a notice dated September 4, 2025, Lakeland denied the request to move petitioner to a residential placement. Petitioner's guardian filed a grievance, but the committee upheld the denial by a letter dated November 20, 2025.
6. On January 26, 2026, petitioner's guardian met with petitioner and a psychologist. Virtually the entire report prepared by the psychologist was based upon the guardian's statements. The psychologist noted a messy living area, although petitioner had had visitors over the night before. After the visit the psychologist recommended protective placement for petitioner. In addition, petitioner's nurse practitioner also recommends residential placement with 24-hour staff.
7. Petitioner currently has CLC staff come by daily, and twice on Mondays and Fridays. He receives phone call reminders to take medications, and CLC staff are available on call. While petitioner has forgotten to take his medications (10 times known in the past year), he has not had any critical incidents involving emergency care.

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 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). 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 concerning the issue in this case 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 his home. However, his guardian believes that he should be placed in a residential facility such as an Adult Family Home so that there will be 24-hour supervision.

Petitioner's guardian fears negative outcomes. In the appeal letter she noted missed medications, poor hygiene, unsanitary practices, fire and safety hazards, and security lapses. However, most of those instances occurred before Lakeland increased visits, and despite the concerns, petitioner has had no emergency situations in the two-plus years that he has lived alone. Lakeland staff contradicted the claim that petitioner frequently fails to take his medications, noting only ten such instances in the past year.

Petitioner's guardian and the professionals who advocate for residential placement base their positions almost entirely on the fear of possible negative outcomes, what *might* happen. However, program providers do not base services on mere possibilities; services are based on likely results, and likely results are best determined by past events and services. As noted, despite the guardian's fear of possible negative results, none have occurred, and CLC has increased its attention to petitioner since the concerns were raised. Occasionally missing a medication is not a life altering event. A single adult male having a messy apartment is not shocking, and petitioner has paid cleaners remedying the situation. Petitioner sometimes leaves the door unlocked, but he has had no break-ins.

Lakeland and CLC are professional organizations that deal full time with disabled individuals living in the community. If it is the belief of the staffs of those agencies that petitioner is able to stay in his home, I give credibility to their expertise. Petitioner has been functioning at home with no critical incidents, and he now has increased agency interactions. I see no glaring reason to change his living situation.

CONCLUSIONS OF LAW

Petitioner's MCO correctly determined that petitioner does not need residential placement outside of his home.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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.

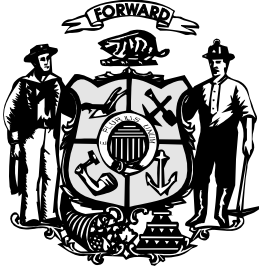
APPEAL TO COURT

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 24th 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 24, 2026.

Lakeland Care Inc
Office of Family Care Expansion
Health Care Access and Accountability