



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
██████████
██████████

DECISION
Case #: FCP - 220350

PRELIMINARY RECITALS

Pursuant to a petition filed on October 9, 2025, under Wis. Admin. Code § DHS 10.55, to review a decision by the MY Choice Family Care regarding Medical Assistance (MA), a hearing was held on January 2, 2026, by telephone.

The issue for determination is whether the Family Care agency erred in its denial of the power wheelchair requested by petitioner.

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: A. Gray
MY Choice Family Care
10201 Innovation Dr, Suite 100
Wauwatosa, WI 53226

ADMINISTRATIVE LAW JUDGE:

John Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Buffalo County.
2. Petitioner is a 60-year-old woman with an above-the-knee left leg amputation that utilizes a wheelchair for all mobility tasks. Member is also diagnosed with chronic pain, COPD and obesity

which have some impact mobility tasks. Member does not have significant shortness of breath related to her COPD when completing general tasks and mobility related items when in the facility. Member is able to pivot transfer when exiting and entering her wheelchair.

3. Petitioner has a manual wheelchair. Petitioner lives in a facility with 24/7 staff and assistance.
4. Petitioner requested a power wheelchair.
5. This was denied by the agency.

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 member. Wis. Admin. Code, §DHS 10.44(2)(f). The ISP must reasonably and effectively address all of the member's long-term needs and outcomes to assist the member to be as self-reliant and autonomous as possible, but nevertheless must be cost effective. While the member has input, the MCO does not have to provide all services the member 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. Stat., §46.287(2)(a)1 provides that a person may request a fair hearing to contest the denial of eligibility for the program and the reduction of services under the FCP program, among other things, directly to the Division of Hearings and Appeals. In addition, the member 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 member's satisfaction, she may then request a hearing with the Division of Hearings and Appeals. Wis. Admin. Code, §DHS 10.55(2).

FCP policies are found primarily in the Department's standard contract with the FCP MCOs. The contract is found on-line at <https://www.dhs.wisconsin.gov/familycare/mcos/fc-fcp-2024-generic-final.pdf>. A lift chair would fall under the heading "adaptive aids," defined as "controls or appliances that enable members to increase their abilities to perform ADLs and IADLs or control the environment in which they live (including patient lifts, control switches, etc.)." See Addendum VI.A.1 of the contract. The general definition cited here leaves the MCOs with the task of determining whether a particular adaptive aid enables the member to increase abilities or control his environment. As has been noted many times in the past, there are no standards written in the law or policy on how to make such a determination. It comes down to the general criteria for determining authorization for services – medical appropriateness and necessity, cost effectiveness, statutory and rule limitations, and effectiveness of the service. See Wis. Adm. Code Ch. DHS § 107.02(3)(e).

While it is correct to say that the standard under Wis. Admin. Code § DHS 10.44(2)(f)3 specifically includes that the ISP should assist the enrollee to be as self-reliant and autonomous "as possible *and* desired" by the enrollee, it is also the long-standing position of the Department, as affirmed in many fair hearing decisions, that the Family Care participant does not have "unfettered choice" in deciding what supports Family Care provides that will serve him or her, what living arrangements will be provided by Family Care, and exactly how the care plan is to be configured.

I note that because petitioner is requesting the item, she has the burden to prove that it should be covered by the FCP. First, and this is an issue I have been seeing with increased frequency, the request is for a non-specific "power wheelchair," in other words, a request for a theoretical piece of equipment. Neither

the MCO nor petitioner researched a particular chair that petitioner could use, and thus petitioner basically is asking for a declaratory judgment that she should receive a power wheelchair chair of some kind, at an as-yet undetermined cost. A cost-benefit analysis cannot be done because there is no cost provided.

Petitioner argues that a power wheelchair will be a benefit for petitioner's independence as she moves around the facility in which she lives. But, on this record, I have no assessment that convinces me that a power wheelchair is an appropriate or necessary device for petitioner. No witness other than petitioner suggested that a power wheelchair is an appropriate option for petitioner at this point. No DME or mobility assessment appears to have been completed recommending a power wheelchair. No medical provider, occupational or physical therapist, or staff member at petitioner's residential facility submitted clinical notes or other documentation that recommended a power wheelchair. The general clinical notes offered by petitioner, do not establish medical necessity. And, as stated above, cost is not supported in any way by petitioner's evidence. Again, petitioner has the burden of proof. This was not a persuasive case.

In the end, I conclude that the idea of a power wheelchair has not been shown to be a necessary or cost-effective means to increase petitioner's independence or to control her environment.

CONCLUSIONS OF LAW

Petitioner has not shown the need for or the appropriateness or cost-effectiveness of a non-specified power wheelchair.

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.

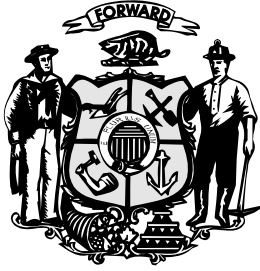
APPEAL TO COURT

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 3rd day of February, 2026

\s _____
John Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
5th Floor North
4822 Madison Yards Way
Madison, WI 53705-5400

Telephone: (608) 266-7709
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 3, 2026.

MY Choice Family Care
Office of Family Care Expansion
Health Care Access and Accountability