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**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

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

**DECISION**  
Case #: FCP - 220607

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 27, 2025, under Wis. Admin. Code, §DHS 10.55, to review a decision by Inclusa regarding the Family Care Program (FCP), a hearing was held on January 14, 2026, by telephone. A hearing set for December 16, 2025 was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly determined supportive home care (SHC) hours.

**PARTIES IN INTEREST:**

Petitioner:

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

Respondent:

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

By: Brook Jaeger  
Inclusa  
3349 Church St Suite 1  
Stevens Point, WI 54481

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 39-year-old resident of La Crosse County.

2. Petitioner has a cognitive disorder resulting from a traumatic brain injury. She has left-sided spasticity and weakness and weakness in her right arm. She has a history of seizures but none in recent years. She uses a wheelchair for mobility. She has a history of falls, and she has a physical therapist working on improving her balance. See Exhibit F of petitioner's hearing submission. She also suffers from anxiety and depression.
3. Petitioner resides in an apartment by herself but requires assistance with some activities of daily living (ADLs) and instrumental ADLs (IADLs). She is eligible for the FCP with Inlcusa as her managed care organization (MCO).
4. Petitioner resided in a nursing home and adult family home after a 2024 car accident. She then stayed at her parent's home while transitioning to her apartment. After the move to the apartment, on September 9, 2025, petitioner requested 40 hours per week SHC hours. The request occurred after a failed attempt in August, 2025, to use a Community Support Living (CSL) provider to assist petitioner. Inlcusa staff initiated a Resource Allocation Decision (RAD) process to determine the approved SHC hours.
5. On September 30, 2025, Inlcusa compiled a Task Assessment Worksheet detailing petitioner's necessary interventions for ADLs and IADLs. See page 32 of the Inlcusa hearing submission. It provided for daily bathing, grooming, dressing, meal preparation, exercise program, and chores, and weekly times for grocery shopping, laundry, cleaning chores, money management, and mental health support. Based upon Department recommended time allotments, it determined that petitioner would need 17 SHC hours per week. Petitioner was informed of the decision by a notice dated September 15, 2025.
6. Petitioner grieved the decision. After a review hearing, the committee granted 20 hours per week, allowing more time because petitioner requires more than standard time for some tasks. That decision was issued on October 21, 2025, and petitioner appealed.
7. Petitioner seeks the additional time so that a person can be present in case of emergency or unscheduled needs. In 2023, before the car accident, petitioner's care plan included 3.25 hours daily for active supervision; see Exhibit H of petitioner's submission. The supervision was not included in Inlcusa's 2025 calculation. At present her mother attends to her in those extra hours.
8. Petitioner has an emergency response unit in place at her apartment. See Exhibit L of petitioner's submission.

### **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). 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 must 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, 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-2025-contract.pdf>. Supportive home care is defined in Addendum VI, Benefit Package Service Definitions, at page 413:

Supportive home care (SHC) is the provision of services to directly assist members with daily living activities and personal needs and to assure adequate functioning and safety in their home and community.

a. Services include the following:

- i. Providing support necessary for member safety at home and in the community, including observation and cueing of the member, to ensure that the member safely and appropriately completes activities of daily living and instrumental activities of daily living.
- ii. Routine housekeeping and cleaning activities performed for a member, consisting of tasks that take place on a daily, weekly, or other regular basis. These tasks may include: washing dishes, doing laundry, dusting, vacuuming, cooking, shopping, cleaning, and similar activities that do not involve hands-on care of the member.
- iii. Intermittent major household tasks that must be performed seasonally or in response to some natural or other periodic event for reasons of health and safety or the need to assure the member's continued community living....

b. This service also includes personal care services including;

- i. Hands-on assistance with activities of daily living such as dressing/undressing; bathing; eating; toileting; assistance with mobility/ambulation/transferring (including the use of a walker, cane, etc.); carrying out professional therapeutic treatment plans; and personal hygiene/grooming, such as care of hair, teeth or dentures. This may also include preparation and cleaning of areas that are used during provision of personal assistance such as the bathroom and kitchen.
- ii. Direct assistance with instrumental activities, such as meal preparation and serving, medication management and treatments that are normally self-administered, care of eyeglasses or hearing aids, money management, telephone/internet use, personal assistance on the job and in non-employment community activities, and using transportation.

I note that the contract also defines “self-directed personal care services” at page 400. Those are defined as direct assistance with activities of daily living and instrumental activities.

Thus there are two types of caregiver services available to an FCP participant. Both provide for hands-on care; they do not include supervision.

While I realize that petitioner's 2023 care plan included three hours per day for supervision, it is clear that the Department's FCP policy does not provide for SHC for supervision purposes. Although this is a guess, my suspicion is that care plans were not checked closely during the pandemic emergency; as a judge I regularly see situations where services allowed during the pandemic are now being disallowed. It is possible that there is other funding that would cover supervision/companionship for someone like petitioner, but FCP SHC is not such a source. Petitioner cites the letter from [REDACTED] that recommends 42 hours per week assistance, but there is no explanation of how that number was determined, or whether [REDACTED] is aware of FCP policies regarding SHC hours.

### CONCLUSIONS OF LAW

The MCO correctly determined that petitioner requires 20 hours weekly direct SHC services.

**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, 5<sup>th</sup> 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**

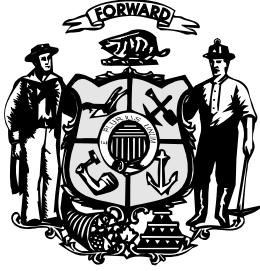
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., **and** on those identified in this decision as "PARTIES 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 22nd day of January, 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 January 22, 2026.

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