



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: FCP - 220625

PRELIMINARY RECITALS

Pursuant to a petition filed on October 28, 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 December 17, 2025, by telephone.

The issue for determination is whether Inclusa incorrectly acted to terminate petitioner's day services at [REDACTED].

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: L. Harper

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 Chippewa County.

2. Petitioner is enrolled in the Family Care Program (“FCP”).
3. Petitioner attended ██████ for day services.
4. Petitioner lives in an adult family home (“AFH”).
5. Petitioner has attended ██████ for several years and attended day services.
6. Petitioner also attends prevocational training at ██████.
7. Inlusa acted to terminate day services at ██████. Prevocational services have continued and have not been affected.
8. A grievance committee appeal was held on 9/17/25.
9. The Inlusa Grievance Committee upheld the termination by notice dated 9/17/25 stating:

Based on the information presented to the committee, ██████ worked to accomplish many of his goals within Day Habilitation services. The remaining goals related more to work than anything else. Thus, the decision to terminate Day Habilitation services and transition those hours to Prevocational Services supports his goals within the program as well as his long-term care outcomes. This decision presents no health or safety or rights issues to ██████.

10. Petitioner filed a timely request for hearing.

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 habilitation 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 Habilitation RAD Companion. That companion provides the following, in part:

...

Day Habilitation Services: Defined by Family Care (FC) contract. Provides activities and supports to foster the acquisition of generalized skills and opportunities for the member to actively participate in integrated community-based activities that build on the member's interests, preferences, gifts, and strengths. Day habilitation reflects the member's person-centered goals regarding community connections and involvement. This service promotes maximum participation in integrated community life while facilitating meaningful relationships, friendships, and social networks with members of the broader community who share similar interests and goals for community participation. Services are aimed at supporting members to reach the highest level of independence and, where possible, reducing or eliminating the need for paid supports to engage in personally meaningful community activities. Services provided must be consistent with the member's member centered plan (MCP).

...

Day habilitation services for adults includes working with members in a group setting (small or large) with program goals that may include, but are not limited to, activities of daily living and community living. Day habilitation services shall include at least one of the following:

- Independent living skills
 - Financial literacy
 - Safety and situational awareness
 - Technology training and exploration
- Mobility skills
- Social, emotional, and personal development
 - Self-awareness and self-advocacy
 - Problem solving and critical thinking
- Communication skills
 - Peer to peer sharing
- Community access/Integration

- Community involvement and volunteering with non-profit organizations as a means to explore interest areas, to become comfortable with working alongside people without disabilities, or to develop general skills helpful for integrated employment
- Tours and information gathering at various community venues (civic centers, libraries, recreation facilities, etc.)
- Introduction to the meaning of work
 - Tours and information gathering of area business’
 - Volunteering
 - Discovery/interest identifying workbooks and/or inventories
 - Discover local communities thru virtual tours of business and informational interviews of local community members

...

See Inclusa Hearing Packet.

Under the scope of services to be provided by the Adult Family Home, there is considerable overlap with the day services 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 Inclusa Hearing Packet.

The MCO’s position is twofold. The MCO first argues that petitioner’s goals at [REDACTED] are employment-centered and that prevocational training is the better avenue to reach those goals.

Additionally, the MCO argues that as for other goals relating to socialization and community-engagement the AFH should be supporting petitioner. The MCO explains 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 habilitation request had been based on during the RAD review. The position of the MCO was found persuasive.

It is my understanding based on the hearing record that prevocational programming is still being provided for petitioner. Petitioner also has options through engagement with the DVR. A byproduct of each of those programs is that they provide petitioner with opportunities for community and social interaction and mental stimulation and engagement.

Under the MCO's scope of services, it is the AFH who is responsible for activities, socialization, and access to community activities. The MCO compellingly argued that day habilitation programming amounts to an impermissible duplication of services when sought for the specific purpose of keeping petitioner active and busy, as was the case here. 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.

The petitioner offered no testimony of any health care provider, day service provider or counselor, or relative of petitioner. Petitioner offered no exhibits other than a narrative explanation for the hearing request. This was a summary of the general benefits of day habilitation services. This explanation was not specific in any way to the petitioner. Indeed, the narrative was apparently copied and pasted for two other petitioner's as well. While the explanation does argue that day services can be beneficial for a person, the narrative does not argue that the services are necessary or cost-effective *for this particular petitioner and in the context of the circumstances of this case* including other services provided and the residential setting. Petitioner's argument that day services are generally beneficial and should, thus, be funded incorrectly supposes that all beneficial items, services, and therapies must be funded.

Petitioner also presented arguments at hearing that were not supported or corroborated by any documentation. For example, petitioner broadly argued that under the HCBS waiver, day-service related activities must be provided by a service provider other than the residential provider, in this case the AFH. Such argument lacks weight without any actual support for this legal assertion. Petitioner offered testimony that establishes that petitioner desires to continue day services and that such services have been part of petitioner's routine for a long time. But, those facts are not disputed. They certainly do not make the continuing services necessary or cost-effective in perpetuity.

Petitioner also argued that Inlusa's position appeared to be based on cost. The petitioner seemed to suggest that the rationale for termination should be less persuasive because of that. But, as stated previously, cost effectiveness is one of the factors that a FCP must consider in every service is approved or provides. That Inlusa considered cost is not a factor weighing against respondent.

Finally, petitioner and his guardian are free to request additional services to address other long term care outcomes and needs, such as those that may be identified by a qualified health care provider. Moreover, day habilitation programming can also be requested at a later time and provided for purposes that do not fall within the AFH's scope of services or that may be otherwise justified, appropriate, necessary and cost-effective.

CONCLUSIONS OF LAW

1. The agency did not err in its termination of day habilitation services for petitioner based on its position that the services are not necessary or cost-effective.

2. Petitioner did not rebut the position of the agency by demonstrating that the services are necessary and cost-effective.

THEREFORE, it is

ORDERED

That petitioner's 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.

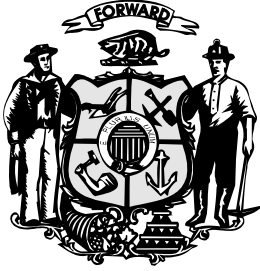
APPEAL TO COURT

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 26th day of January, 2026

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



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The preceding decision was sent to the following parties on January 26, 2026.

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