



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FCP - 200751

PRELIMINARY RECITALS

Pursuant to a petition filed December 14, 2020, under Wis. Admin. Code, §DHS 10.55, to review a decision by Inclusa Inc to deny Family Care Program (FCP) funding for a motorized scooter, a hearing was held on January 6, 2021, by telephone.

The issue for determination is whether the agency correctly denied the requested scooter.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By: [REDACTED]
Inclusa Inc
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 (CARES # [REDACTED]) is a 64-year-old resident of Clark County.
2. Petitioner is eligible for the FCP with Inclusa as her managed care organization (MCO). Her primary diagnosis is chronic back pain. While she is able to walk short distances, she requires assistance for longer distances.

3. For a number of years petitioner has owned a power scooter that she purchased using her own funds. The scooter now has broken down.
4. On September 11, 2020 petitioner requested that the FCP purchase a new scooter as a cost of approximately \$2,200. By a letter dated September 14, 2020, Inclusa denied the request as not being a necessary support to help her with independence. Petitioner filed a grievance, but the committee upheld the denial on October 29, 2020.
5. Petitioner primarily uses the scooter to go to a grocery store four blocks from her home. She is able to drive and has a car; her husband also can drive. She also has a moped scooter.

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); DHS booklet, Being a Full Partner in Family Care, page 9. ISPs must be reviewed periodically. Admin. Code, §DHS 10.44(j)(5).

The MCO must follow a Resource Allocation Decision (RAD) process in handling requests for services or equipment. The primary purpose of the RAD process is to foster critical thinking and consistency in service decision-making and to include the member's input. See OFCE Memo 13-02, dated June 26, 2013. Staff must work with the member to accomplish cost-effective service determinations.

Petitioner has a number of transportation options, but a power scooter is her preferred option. The MCO cannot approve a piece of medical equipment simply because it is the one the client wants. It still must be cost effective. Here, given the number of transportation options, the agency found with justification that the requested scooter is not cost effective and necessary to get petitioner around town. MCO staff are experts at determining FCP necessity and cost effectiveness; their judgment must be given weight. I conclude that although petitioner desires a power scooter, she has not shown it to be necessary and cost effective equipment to meet her FCP outcome.

CONCLUSIONS OF LAW

The MCO correctly concluded that the requested equipment was not necessary and cost effective to meet petitioner's FCP outcome.

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.

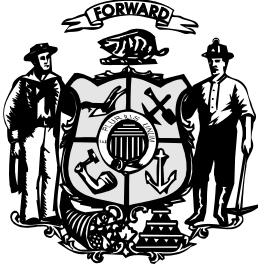
APPEAL TO COURT

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, 1 West Wilson Street, Room 651, **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 11th day of January, 2021

\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 11, 2021.

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