



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

██████ ██████  
c/o ██████ ██████  
██████████████████  
██

DECISION

CWK/146674

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 15, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Family Support & Resource Center in regard to Medical Assistance, a hearing was held on February 08, 2013, at Madison, Wisconsin.

In this case, Dane County worker Angela Radloff sent a January 2, 2013 notice to the petitioner's mother, ██████ ██████, informing her that ██████'s eligibility for the COP Waiver and Children's Long Term Support services program would discontinue effective February 1, 2013, due to his no longer meeting the Level of Care requirement necessary to be continue eligibility for those programs. The petitioner has been eligible for the programs since December, 2010. The petitioner's mother timely appealed the denial on January 15, 2013.

During the February 8, 2013 hearing, the petitioner's representative (his mother) requested that the hearing record be held open for about one month for documents submitted during the hearing and documents submitted after the hearing to be sent to the Dane County agency representative for a reconsideration decision. Petitioner's mother sent a March 7, 2013 fax to DHA requesting an extension of time to submit new evidence to DHA and the county agency. That request was granted. Ms. ██████ sent documents to DHA on May 9, 2013. The petitioner's mother asserted she believed that ██████ continued to meet the Level of Care guidelines.

This Administrative Law Judge (ALJ) sent a May 19, 2013 cover letter to Ms. Radloff at the county agency with a copy of the following Exhibits and documents submitted to DHA: a) April 15, 2013 Psychological Evaluation by Dr. Heather D. Hurd, Ph.D; b) Age-Specific ADL/IADL Answer Choices for Children's Long Term Support programs (ages 6-9 years); c) January 29, 2013 letter by Special education teacher ██████ ██████; d) January 22, 2013 School Function Assessment Record Form, pages 6 - 16; and e) undated letter by ██████ ██████ director, ██████ ██████. In that same letter, this ALJ requested that Ms. Radloff review the enclosed copies of letters/documents, and submit a detailed reconsideration summary to me at the Division of Hearings and Appeals by June 3, 2013, with a copy of that reconsideration summary letter to be sent to the petitioner's parents as his representatives. During the hearing, the petitioner's representatives requested and were granted until June 13, 2013 to submit to DHA any response to Ms. Radloff's reconsideration summary.

Ms. Radloff sent a May 28, 2013 reconsideration summary to DHA with a copy to the petitioner's mother. In that summary, Ms. Radloff stated in pertinent part: "After reviewing the information and redoing the functional screen with the new information ██████ ██████ has been found eligible on the Functional Screen, under Developmental Disabilities (DD) target group. His CLTS services will continue." As a result, petitioner's CLTS Waiver is restored retroactive to the February 1, 2013 discontinuance date.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

██████ ██████  
c/o ██████ ██████  
██████████████████  
██████████████████

Representative:

██████ ██████, mother  
██████████████████  
██████████████████

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703  
By: Angela Radloff, community program specialist  
Dane County Dept. of Human Services  
1202 Northport Drive  
Madison, WI 53704

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 5 year old resident of Dane County.
2. During December, 2012, the petitioner's parents participated in a review application on behalf of the petitioner for the Children's Long Term Support Home and Community-Based Services Waiver (CLTS Waiver) benefits.
3. The county agency conducted a CLTS Functional Screen of the petitioner during December, 2012, and the functional screen report was issued by screener ██████ ██████ on December 19, 2012.
4. The county agency sent a January 2, 2013 letter to the petitioner's parents stating that the petitioner's re-application for the Children's Long Term Support Waiver was discontinued effective February 1, 2013, due to no longer meeting the Level of Care eligibility requirement. See Exhibit 1.
5. The county agency sent a January 23, 2013 summary letter to the Division of Hearings and Appeals (DHA) explaining the basis for February 1, 2013 discontinuance of petitioner's review application for CLTS eligibility due to no longer meeting level of care. See Exhibit 2.
6. The petitioner's mother filed a January 13, 2013 appeal at DHA of the petitioner's February 1, 2013 CLTS discontinuance.
7. This Administrative Law Judge (ALJ) sent a May 19, 2013 cover letter to Ms. Radloff at the county agency with a copy of the Exhibits and documents submitted to DHA during and after the February 8, 2013 hearing. See above Preliminary Recitals.

8. County agency DD program specialist, Angela Radloff, sent a May 28, 2013 reconsideration summary to DHA with a copy to the petitioner's mother. Based upon that new evidence, Ms. Radloff stated in pertinent part: "After reviewing the information and redoing the functional screen with the new information [REDACTED] [REDACTED] has been found eligible on the Functional Screen, under Developmental Disabilities (DD) target group. His CLTS services will continue." As a result, petitioner's CLTS Waiver is restored retroactive to February 1, 2013.

### **CONCLUSIONS OF LAW**

1. The petitioner's care needs meet the CLTS Developmental Disability Level of Care.
2. The county agency stipulated that it will restore the petitioner's eligibility for the CLTS Waiver as of February 1, 2013.

**THEREFORE, it is**

**ORDERED**

That the matter herein is remanded to the county agency (**Attention: Community Program Specialist Angela Radloff**) with instructions to restore the petitioner's Children's Long Term Support Home and Community-Based Services Waiver eligibility retroactive to February 1, 2013, within 10 days of the date of this Decision.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 31st day of May, 2013

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\sGary M. Wolkstein  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 31, 2013.

Family Support & Resource Center  
Bureau of Long-Term Support