

FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
c/o [REDACTED] and [REDACTED]
[REDACTED]
[REDACTED]

DECISION

CWK/158135

PRELIMINARY RECITALS

Pursuant to a petition filed June 03, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Shawano County Department of Social Services in regard to Medical Assistance, a telephonic hearing was held on July 23, 2014, at Shawano, Wisconsin. Shawano County worker Pamela Haasl sent a May 15, 2014 notice to the petitioner's parents, [REDACTED] and [REDACTED], informing them that [REDACTED]'s eligibility for the Children's Long Term Support (CLTS) services program would discontinue effective May 31, 2014, due to his no longer meeting the SED or the DD Level of Care requirement necessary to be continue eligibility for those programs. The petitioner has been eligible for the programs since May, 2010 under the Severe Emotional Disturbance (SED) Level of Care. The petitioner's mother timely appealed the denial on June 3, 2014.

During that July 23, 2014 hearing, the petitioner's representatives (his mother and father) requested that the hearing record be held open for documents submitted during the hearing and documents submitted after the hearing to be sent to the Shawano County agency representative for a reconsideration decision.

Ms. Haasl sent a July 30, 2014 summary letter with attached 2013 and 2014 CLTS Family Functional Screens of the petitioner and a supplemental document to DHA. However, on July 31, 2014, petitioner's mother faxed to DHA additional new evidence and reports regarding the petitioner alleging that the new evidence established that petitioner should remain eligible for CLTS under some level of care.

This Administrative Law Judge (ALJ) sent a September 9, 2014 cover letter to Ms. Haasl at the county agency with a copy of the following Exhibits and documents submitted to DHA on July 31, 2014: a) petitioner's mother's July 31, 2014 letter arguing that petitioner continues to meet a level of care; and b) the 16 page, recent [REDACTED] School District Evaluation report and IEP for the petitioner. In that letter, this ALJ requested that Ms. Haasl review the enclosed copies of letters/documents, and submit a supplemental reconsideration summary to me at the Division of Hearings and Appeals by September 22, 2014 with a copy of that reconsideration summary letter to be sent to the petitioner's mother as his representative. During the hearing, the petitioner's representative requested an opportunity to respond to Ms. Haasl's reconsideration summary, if necessary. The petitioner's representative was granted until October 2, 2014 to respond to Ms. Haasl's reconsideration summary.

Ms. Haasl sent a September 19, 2014 reconsideration summary to DHA and Mr./Mrs. [REDACTED] which stated that based upon the new information provided by the petitioner's family and discussion with school staff that petitioner does meet the DD level of care for continued eligibility for long term care services.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
c/o [REDACTED] and [REDACTED]
[REDACTED]
[REDACTED]

Representatives:

[REDACTED] and [REDACTED], parents
[REDACTED]
[REDACTED]

Respondent:

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

By: Pam Haasl, case manager
Shawano County Department of Social Services
607 E. Elizabeth Street
Shawano, WI 54166-3105

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a 9 year old resident of Shawano County who resides with his parents.
2. During April/May, 2014, the petitioner’s parents participated in a review application on behalf of the petitioner for continued 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 which began April, 24, 2014, and the functional screen report was issued by screener Pamela Haasl on May 8, 2014.
4. The county agency sent a May 15, 2014 letter to the petitioner’s parents stating that the petitioner’s re-application for the Children’s Long Term Support Waiver was discontinued effective May 31, 2014, due to no longer meeting the Level of Care eligibility requirement. See Exhibit 1.
5. The petitioner’s mother filed a timely June 3, 2014 appeal at DHA of the petitioner’s May 31, 2014 CLTS discontinuance.
6. This Administrative Law Judge (ALJ) sent a September 9, 2014 cover letter to Ms. Haasl at the county agency with a copy of the Exhibits and documents submitted to DHA during and after the July 23, 2014 hearing. See above Preliminary Recitals.
7. County agency case manager, Pamela Haasl, sent a May 28, 2013 reconsideration summary to DHA with a copy to the petitioner’s mother. Ms. Haasl stated that based upon the new evidence and information provided by the petitioner’s family and discussion with school staff that petitioner does meet the Developmental Disability (DD) level of care for continued eligibility for long term care services. As a result, petitioner’s CLTS Waiver is restored retroactive to the date of discontinuance, May 31, 2014. See September 19, 2014 letter and above Preliminary Recitals.

CONCLUSIONS OF LAW

1. The petitioner’s care needs meet the CLTS Developmental Disability (DD) Level of Care.
2. The county agency stipulated that it will restore the petitioner’s eligibility for the CLTS Waiver as of May 31, 2014.

THEREFORE, it is

ORDERED

That the matter herein is remanded to the county agency (**Attention: DCP Case Manager Pamela Haasl**) with instructions to restore the petitioner’s Children’s Long Term Support Home and Community-Based Services Waiver eligibility retroactive to May 31, 2014, within 10 days of the date of this Decision.

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, 5005 University Avenue, Suite 201, 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, Madison, Wisconsin 53703, **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 13th day of October, 2014

\sGary M. Wolkstein
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 October 13, 2014.

Shawano County Department of Social Services
Bureau of Long-Term Support