



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION

MKB/158549

PRELIMINARY RECITALS

Pursuant to a petition filed June 24, 2014, under Wis. Stat. § 49.45(5), to review a decision by the Bureau of Long-Term Support to discontinue Katie Beckett Medical Assistance (MA), a hearing was held on August 13, 2014, by telephone.

The issue for determination is whether petitioner meets the level of care requirements.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Written submission of Patsy Bansley, RN

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 5-year-old resident of Dane County.
2. Petitioner was diagnosed with leukemia and found eligible for Katie Beckett MA effective January 1, 2012 under the nursing home level of care. A review of her eligibility was done in May, 2014. By a notice dated June 3, 2014, the Bureau informed petitioner's parents that eligibility would end July 3, 2014 because petitioner no longer met the level of care requirements.
3. At present petitioner no longer receives chemotherapy. She does not receive G-tube feeding or an IV port. She does not have daily nursing intervention or multiple weekly nursing interventions.

4. Petitioner requires daily assistance with dressing and toileting, and assistance 50% of the time with bathing.

DISCUSSION

The purpose of the "Katie Beckett" waiver is to encourage cost savings to the government by permitting children under age 18, who are totally and permanently disabled under Social Security criteria, to receive MA while living at home with their parents. Wis. Stat., §49.47(4)(c)1m. The Bureau of Developmental Disabilities Services is required to review "Katie Beckett" waiver applications in a five-step process. The first step is to determine whether the child is age 18 or younger and disabled. The disability determination is made for the Bureau by DDB. If the child clears this hurdle, the second step is to determine whether the child requires a level of care that is typically provided in a hospital, nursing home, or ICF-MR. The remaining three steps are assessment of appropriateness of community-based care, costs limits of community-based care, and adherence to income and asset limits for the child.

A policy document for levels of care for all children's long term support programs was issued in February, 2011. It can be found on the internet at www.dhs.wisconsin.gov/bdds/waivermanual/CLTS_LOC.pdf. There currently are four levels of care: hospital, psychiatric hospital for severe emotional disorders (SED), nursing home, and care facility for the developmentally disabled (ICF-DD).

Petitioner is not developmentally disabled and does not have emotional disorders. She does not require the interventions that would meet a hospital level of care. The issue is whether she meets the nursing home level of care.

To meet the nursing home level, the child (1) must have a diagnosis or medical/physical needs that result in a long-term disability and (2) must need nursing interventions and/or must have substantial functional limitations that require hands on assistance from others throughout the day.

If the child has a long-term disability, the Nursing Home Level of Care then is broken down into two standards. Standard I requires (1) medical/physical needs that require either (a) one substantial daily nursing intervention or (b) less frequent (but at least weekly) multiple nursing interventions, and (2) substantial functional limitations in at least two of the following: learning, communication, self-care, mobility, social competency, work, and meal preparation or money management.

Standard II does not require the skilled nursing intervention, but requires daily hands on assistance with at least four of the following: learning, communication, bathing, grooming or dressing, eating, toileting, and mobility.

Petitioner still has regular contact with health care providers, but not on a daily or even weekly basis. She is getting physical and occupational therapy, but those are not the same as hands-on nursing care. She thus does not meet Standard I.

Standard II is closer but I do not see hands on daily assistance in four of those areas. She has to be helped with grooming/dressing and toileting, which is unusual for a five-year-old, but does not require the assistance in the other areas (I note that she probably needs help with bathing as any five-year-old would need. It is unusual that she requires help getting into and out of the tub 50% of the time, and thus that is the activity I am looking at with bathing when I conclude that she does not need daily assistance).

I must conclude that the Bureau's determination was correct. Petitioner does not meet the nursing home standard at this time. Should she suffer a decline for any reason, Katie Beckett can always be requested again.

CONCLUSIONS OF LAW

The Bureau correctly determined that petitioner no longer meets the nursing home level of care requirement for Katie Beckett MA eligibility.

THEREFORE, it is **ORDERED**

That the petition for review herein be and the same 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, 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 18th day of August, 2014

\sBrian 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 August 18, 2014.

Bureau of Long-Term Support
Division of Health Care Access and Accountability