



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

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

DECISION

CWK/163107

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 07, 2015, 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 May 27, 2015, at Madison, Wisconsin.

In this case, Dane County worker, Angela Radloff, sent a December 9, 2014 notice (Exhibit 1) to the petitioner's parents, ██████████ and ██████████, informing them that ██████████ does not meet the Level of Care requirement necessary to be eligible for the Children's Long Term Support (CLTS) services. The petitioner's mother timely appealed the denial on January 7, 2015.

At the petitioner's request, his appeal has been rescheduled three times. The telephone hearing finally did take place on May 27, 2015 in the above-captioned case. Ms. Radloff attempted to appear for that hearing, but was understandably unavailable due to her sick child at home. During that May 27, 2015 hearing, the petitioner's representatives (his parents) 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 Dane County agency representative for a reconsideration summary.

Petitioner's parents sent to DHA a four page, detailed summary letter along with about 60 pages of documents which were received at DHA on June 16, 2015. Those documents are submitted to support the petitioner's contention that the new evidence established that petitioner should be eligible for CLTS most likely under the DD level of care, but perhaps under some other level of care. This ALJ sent a June 17, 2015 letter to Ms. Radloff at the county agency a copy of the above Exhibits and documents submitted to DHA on June 16, 2015.

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 DHA by July 3, 2015, 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 representative requested an opportunity to respond to Ms. Radloff's reconsideration summary, if necessary. The petitioner's representatives were granted 10 days to send to DHA (with a copy to Ms. Radloff) any response to Ms. Radloff's summary.

After this ALJ sent his June 17, 2015 letter to the parties, DHA received later that day from petitioner's parents 3 pages of clinical notes from ██████████ surgery regarding petitioner. DHA sent to Ms. Radloff at the county agency a copy of the most recent (and last) submission by petitioner to DHA to review the enclosed 3 page document (as well as the document attached to the June 17, 2015 letter), and submit a reconsideration summary to DHA with a copy of that supplemental reconsideration summary letter to be sent to the petitioner's parents as his representatives. The petitioner's parents had the opportunity for a response to DHA, if they wished to submit any response.

Ms. Radloff sent a July 2, 2015 reconsideration summary to DHA with a copy to the petitioner’s parents. In that summary, Ms. Radloff stated in pertinent part: “With the new information [REDACTED] has been found to meet the Level of Care for Developmental Disability. [REDACTED] has now been added to Dane County’s waitlist for the CLTS Children’s Long-Term Support Waiver. I back-dated [REDACTED]’s start date on the waitlist to 9/24/2014, as this was the first home visit that you had with [REDACTED].”

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

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

Representatives:

[REDACTED], parents  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: Angela Radloff, developmental disabilities 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 4 year old resident of Dane County who resides with his parents.
2. During September, 2014, the petitioner’s parents applied on behalf of the petitioner for the Children’s Long Term Support Home and Community-Based Services Waiver (CLTS Waiver) benefits, the first home visit was conducted by case manager, [REDACTED] on September 24, 2014.
3. The county agency sent a December 9, 2014 letter to the petitioner’s parents stating that the petitioner’s application for the Children’s Long Term Support Waiver was denied due to not meeting the Level of Care eligibility requirement. See Exhibit 1.
4. The county agency conducted a CLTS Functional Re-Screening of the petitioner on January 30, 2015, and a functional screen report was issued by screener [REDACTED] on or about February 10, 2015. See Exhibit 3.
5. The petitioner’s parents filed a January 7, 2015 appeal at DHA of the petitioner’s CLTS application denial.
6. The county agency sent a January 21, 2015 summary letter to the Division of Hearings and Appeals (DHA) explaining the basis for denial of petitioner’s application for CLTS eligibility due to not meeting level of care. See Exhibit 2.

7. This administrative law judge (ALJ) sent June 17, 2015 and June 24, 2015 cover letters to Ms. Radloff at the county agency with a copy of the Exhibits and documents submitted to DHA during and after the May 27, 2015 hearing. See above Preliminary Recitals.
8. County agency developmental disability (DD) program specialist Angela Radloff sent a July 2, 2015 reconsideration summary to DHA with a copy to the petitioner's parents. In that summary, Ms. Radloff stated in pertinent part: "With the new information [REDACTED] has been found to meet the Level of Care for Developmental Disability. [REDACTED] has now been added to Dane County's waitlist for the CLTS Children's Long-Term Support Waiver. I back-dated [REDACTED]'s start date on the waitlist to 9/24/2014, as this was the first home visit that you had with [REDACTED]."

### CONCLUSIONS OF LAW

1. The petitioner's care needs meet the CLTS Developmental Disability (DD) Level of Care.
2. The agency incorrectly denied the petitioner's September 24, 2014 CLTS Waiver application due to alleged failure to satisfy the "level of care" theory.
3. The county agency stipulated to place the petitioner on its CLTS Waiver waitlist as of September 24, 2014.

**THEREFORE, it is**

### ORDERED

That the matter herein is remanded to the county agency (**Attention: DD Specialist Angela Radloff**) with instructions to continue to process the petitioner's Children's Long Term Support Home and Community-Based Services Waiver application retroactive to his September 24, 2014 application date in accord with the above Conclusions of Law, 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 9th day of July, 2015

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\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 July 9, 2015.

Family Support & Resource Center  
Bureau of Long-Term Support