



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted]
c/o [Redacted]
[Redacted]
[Redacted]

DECISION

MKB/163165

PRELIMINARY RECITALS

Pursuant to a petition filed on or about November 4, 2014, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Wisconsin Department of Health Services ["DHS"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on January 22, 2015.

The issue for determination is whether or not petitioner's eligibility for the MA Katie Beckett Program ["KBP"] can be made effective prior to May 31, 2014.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted] (not present at January 22, 2015 Hearing)
c/o [Redacted]
[Redacted]
[Redacted]

Represented by:

[Redacted], petitioner's mother
[Redacted]
[Redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
BY: Peg Corp, RN, Nurse Consultant

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (9 months old) is a resident of Sauk County, Wisconsin.

2. Petitioner was born in early May 2014 and required extensive in-patient medical care; she was cared for first at St. Clare Hospital in Baraboo but after only a few days was transferred to St. Mary's Hospital Neonatal Intensive Care Unit ["NICU"] in Madison; she was eventually diagnosed with Prader-Willi Syndrome, hypotonia, newborn apnea, and required a G-tube to be placed; she was discharged from the hospital to her home on May 31, 2014.
3. In June 2014 petitioner applied for KBP and requested retroactive eligibility to her date of birth; she was found to be eligible effective May 31, 2014.

DISCUSSION

The purpose of the Katie Beckett waiver program is to encourage cost savings to the taxpayer by permitting disabled children, who would otherwise be institutionalized, to receive MA while living at home with their parents. 42 U.S.C. 1396a(e)(3); 42 C.F.R. § 435.225 (2012); Wis. Stat., § 49.46(1)(d)4. (2013-14). There are several requirements that must be satisfied for a child to be eligible for KBP. One is that the level of care required by the child's condition must be a level of care that would normally be provided in an institution. 42 U.S.C. § 1396a(e)(3)(B)(i) & 42 C.F.R. § 435.225(b)(1) (2012); see also, Wis. Stat. § 49.46(1)(d)4 (2013-14). Another is that it must be appropriate to provide care outside of an institution. 42 U.S.C. § 1396a(e)(3)(B)(ii) & 42 C.F.R. § 435.225(b)(2) (2012).

An applicant becomes eligible for KBP on the day that all eligibility criteria have been met. As noted above, in order for a child to be eligible for KBP it must be appropriate to provide care outside of an institution. Based on the evidence in the record of this matter it was not appropriate to provide petitioner's care outside of an institution until her discharge from the hospital on May 31, 2014. Therefore, petitioner's eligibility for KBP can not be made effective prior to May 31, 2014.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner's eligibility for KBP can not be made effective prior to May 31, 2014.

NOW, 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 12th day of February, 2015

\sSean P. Maloney
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 February 12, 2015.

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