



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

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

DECISION

CWK/169520

PRELIMINARY RECITALS

Pursuant to a petition filed October 19, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services and the Family Support & Resource Center ["County"] in regard to Medical Assistance ["MA"], a Hearing was held via telephone on November 5, 2015.

The issue for determination is whether it was correct to discontinue petitioner's Children's Long Term Support waiver ["CLTS"] intensive in-home treatment services effective October 31, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Represented by:

[REDACTED] (not present at November 5,
2015 Hearing)
c/o [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED], petitioner's mother
[REDACTED]
[REDACTED]

Respondent:

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

BY: [REDACTED], DD Program Specialist
Family Support & Resource Center
101 Nob Hill Rd
Suite 201
Madison, WI 53713

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (7 years old) is a resident of Dane County, Wisconsin.
2. Petitioner receives CLTS intensive in-home treatment services.
3. The County determined that petitioner's CLTS intensive in-home treatment services would end effective October 31, 2015 because the 3 year time limit of eligibility for such services had been reached for him; the County verbally communicated this determination to petitioner's mother; the County did not provide any written notice of this determination.
4. Petitioner CLTS intensive in-home treatment services have been continued pending this *Decision*.

DISCUSSION

CLTS is run according to the terms of waivers that were granted to the State of Wisconsin by the United States federal government. The waivers allow the State of Wisconsin to operate CLTS without following all of the rules that normally apply to MA. Wis. Stat. §§ 46.27(11) (2013-14); See also, 42 C.F.R. §§ 435.217, 440.180 & 441.300 et. seq. (2015).

CLTS is a source of funding for long-term support for those who would otherwise face institutional care. CLTS serves children and persons under the age of 22 who have a developmental disability, physical disability, and those who have a severe emotional disturbance. *Medicaid Home & Community-Based Services Waivers Manual* ["MW Manual"] § 2.02.D (January 2010). The purpose of CLTS is to provide funding for the option of community integration to people who are otherwise eligible for MA funded institutional care. MW Manual §§ 1.01, 2.01.2 & 2.07.D. (January 2010).

Petitioner argues, among other things, that he was not given proper notice of the discontinuance of his CLTS intensive in-home treatment services. Petitioner is correct.

An agency is required to mail written notice at least 10 calendar days before the effective date of an action. 42 C.F.R. § 431.211 (2015); Wis. Admin. Code §§ DHS 102.04(2) (December 2008) & 103.09(4) (July 2015); *Income Maintenance Manual* ["IMM"] 3.2.3; MW Manual 2.10.B.2 (January 2010) & 8.02.A.4. (October 2008). The written notice must contain specific information. MW Manual § 2.10.B.2; IMM 3.2.2; See also, Wis. Admin. Code §§ DHS 102.04(2) (December 2008) & 103.09(4) (July 2015). In this case the County failed to provide petitioner with the required written notice. Therefore, October 31, 2015 discontinuance of petitioner's CLTS intensive in-home treatment services must be reversed.

CONCLUSIONS OF LAW

For the reasons discussed above, it was not correct to discontinue petitioner's CLTS intensive in-home treatment services effective October 31, 2015.

NOW, THEREFORE, it is

ORDERED

That this matter be REMANDED to the County and that petitioner's CLTS intensive in-home treatment services not be discontinued effective October 31, 2015. This must be done 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 7th day of December, 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 December 7, 2015.

Family Support & Resource Center
Bureau of Long-Term Support