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**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**

Case #: CWK - 216100

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 27, 2024, under Wis. Admin. Code, §HA 3.03(1), to review a decision the Rock County Human Services to disenroll petitioner from the Children's Long-Term Support program (CLTS), a hearing was held on February 20, 2025, by telephone. A hearing set for January 15, 2025 was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly sought to close petitioner's CLTS for failing to complete reassessment requirements.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner's Representative:

Atty. Trevor C. Leverson  
Halling & Cayo  
320 E. Buffalo Street, Suite 700  
Milwaukee, WI 53202

Respondent:

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

By: Atty. Shanna Sanders  
Rock County Human Services  
1900 Center Avenue  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

## **FINDINGS OF FACT**

1. Petitioner is an 8-year-old resident of Rock County.
2. Petitioner has been eligible for CLTS with Rock County Human Services as the case management agency. She was due for an annual mandatory recertification in May, 2024. Petitioner's mother signed an agreement to maintain contact with the agency.
3. Beginning in March, 2024, the agency attempted to schedule a home visit to complete the recertification. Numerous emails and phone calls were sent/made to petitioner's mother to schedule the home visit. A home visit finally took place on May 21, but petitioner was present for only approximately five minutes with little chance for the worker to observe her.
4. The agency worker then continued to attempt to complete the recertification, asking petitioner's mother to sign releases of information so the worker could speak with medical and school personnel. Petitioner's mother refused to sign the releases because she wanted to be present for all contacts with petitioner's medical and school providers.
5. During the period May 24 through the end of September petitioner's mother rarely responded to requests/contacts made by the case worker.
6. Because petitioner's mother asked for increased services, the worker again attempted to schedule a home visit. Petitioner's mother questioned the need for another assessment and continued to refuse to sign releases. Finally a home visit occurred on October 29, 2024, but petitioner was present for only moments before a caregiver took her to a park.
7. At that point the agency gave up. By a notice dated November 13, 2024, the agency informed petitioner that CLTS would end November 28 because it could not complete required assessments. Benefits were restored pending this decision. The agency did manage to complete a certification in January, 2025, but without having access to any collateral contacts.

## **DISCUSSION**

The CLTS program started on January 1, 2004 after the federal Department of Health and Human Services informed the state department (DHS) that federal MA funding would no longer be available for in-home autism services. The department drafted and released the Medicaid Home and Community-Based Waiver Manual for the CLTS Program ("the Manual"), with a current update as of February, 2025. It can be found on the internet at <https://www.dhs.wisconsin.gov/publications/p02256.pdf>. It does not appear that any changes in the update affect the issue in this matter.

A child must be recertified as eligible for the program, including a new level of care determination (the functional screen), annually. Manual, §6.2. While overseeing the child's services, the management agency must at minimum make the following contacts: "Monthly collateral contact, direct contact with the family every three months, in-person contact at least every six months (with the participant), annually, at least one of the in-person contacts is required to take place at the participant and family's place of residence." Manual, §4.6.29.2. Collateral contact includes contact with medical or social services providers or other individuals with knowledge of the child's long-term needs. Id.

As a first point, I will address petitioner's claim that the Notice of Action was inadequate. A notice of action regarding Medicaid and its related programs must include "a clear statement of the specific reasons supporting the intended action" as well as identifying a specific regulation to support the action. 42

C.F.R. §431.210(b). It also should include notice of the right to a hearing and the circumstances under which continued benefits can be ordered. That said, a faulty notice can be rehabilitated by subsequent activity prior to the hearing, such as providing a detailed case summary. *Kocher v. DHS*, 152 Wis. 2d 170, 448 N.W. 2d 8 (Ct. App. 1989).

Here, even if the original notice of action was arguably inadequate, by the time of the hearing petitioner had more than enough notice of the action and the reason why, most notably as set out in the agency's brief issued January 8, 2025. Petitioner appealed timely and received continued benefits, so she was not prejudiced in that issue. Notably, the CLTS program is operated almost entirely within the policy manual described above; there simply are no regulations, code provisions, or statutes to cite. The federal regulation requirement thus would never be met in a CLTS negative action. I find that there was more than sufficient notice for petitioner's representatives to present and argue her case.

On the merits, I fully understand petitioner's mother's desire to be meticulously involved in her child's case. However, as noted during the hearing, petitioner's mother has seven disabled children and young adults in her family, six of them living at home. It is astoundingly clear to me that she is incapable of flyspecking every action involving her children. Between May 24 and July 9, 2024, petitioner's mother did not respond to petitioner's worker even once despite at least six attempts by the worker to contact her. By the time the agency took the action to terminate CLTS in November, 2024, petitioner's recertification still was not complete despite being due in May, 2024.

After listening to both sides, with the belief that petitioner needs services through CLTS and that it is not her fault that basic assessments and contacts cannot seem to get done, I conclude that the one thing that must be done is for petitioner's mother to sign the agency's releases of information. I acknowledge that nothing in the policy requires a parent to sign medical releases, but this case is unique. It is clear to me that the management agency simply cannot do its job without the ability to contact medical, social work, and school professionals. Petitioner's mother testified that she only wants to be able to listen in to the contacts with collateral professionals, but the evidence shows that to be an impossible wish. Petitioner's mother cannot even respond to direct contacts by petitioner's worker; I simply cannot fathom how a contact with a doctor, for example, could be arranged at a date and time available to all parties.

Petitioner's mother is afraid that incorrect information will be provided if she is not involved in the contact. Starting with the premise that no collateral contact is going to deliberately provide incorrect information, the chances of misstatements occurring are small, and if it happens, I have no doubt that petitioner's mother will notice and correct the error.

I thus will order that the agency shall not terminate petitioner's CLTS **if** petitioner's mother signs the agency's preferred releases of information within eleven days of this decision (this decision will be issued on Thursday, March 6, so the final day for action will be Monday, March 17). If she still refuses, then the termination will become effective on day 12 (March 18). I note that the agency already has proffered releases to be signed, so there should be no need for lengthy deliberation by petitioner's mother.

I realize that this decision is not necessarily the end of the conflict. There still remains the issue of lack of contact between worker and child. The policy requires the worker to have periodic, meaningful meetings with the child, and that has not happened. It must. If down the road we are back with a new attempt to terminate services because of lack of contact, my decision will be quick.

### **CONCLUSIONS OF LAW**

In the unique circumstances of this family situation, the only way to avoid termination of CLTS due to failure to complete recertifications is to have petitioner's mother sign releases of information so that the CLTS worker can contact collateral sources to complete certification requirements.

**THEREFORE, it is**

**ORDERED**

That the matter be remanded to the agency with instructions to continue petitioner's CLTS eligibility as long as petitioner's mother signs the county's preferred releases of information for collateral contacts within eleven days of this decision. If she does not sign the releases, the proposed termination shall become effective on March 18, 2025.

**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, 4822 Madison Yards Way, 5<sup>th</sup> Floor North, 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.

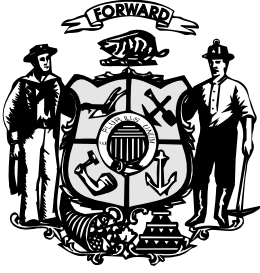
**APPEAL TO COURT**

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, **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 6th day of March, 2025

\s \_\_\_\_\_  
Brian C. Schneider  
Administrative Law Judge  
Division of Hearings and Appeals



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The preceding decision was sent to the following parties on March 6, 2025.

Rock Cty Human Services  
Bureau of Long-Term Support  
Attorney Trevor Levenson



Attorney Shanna Sanders