



FH

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: CWK - 220287

PRELIMINARY RECITALS

Pursuant to a petition filed on October 3, 2025, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on November 11, 2025, by telephone.

The issue for determination is whether the petitioner met its burden to demonstrate that training for a service dog should be funded by the CLTS program.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703
By: A. Schools
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:
John Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.

2. Petitioner is enrolled in the CLTS Program.
3. Petitioner is 9 years old.
4. Petitioner has diagnoses including Autism Spectrum Disorder, anxiety disorder, neuromuscular disorder, and ADHD.
5. The CLTS Functional Screen performed on 6/26/25 reflects a high risk behavior of running away/elopement and behaviors including hitting, kicking, and biting others, being combative during bathing. She also harms herself including scratching. Two caregivers are needed to perform some ADL's.
6. Petitioner sought CLTS approval for training for a service dog.
7. The agency issued a letter dated 9/24/25 explaining the denial of training for a service dog (boldface in original):

We have had several conversations about CLTS providing training for a service dog for [REDACTED]. You had mentioned that you had someone from [REDACTED] come out and tell you all the ways that a dog could help [REDACTED] with her struggles. A few of the struggles you feel a dog would help [REDACTED] with are self-regulation, eloping, sensory seeking behavior, anxiety, and social skills. You were also able to provide a letter from the therapist saying they believed she would greatly benefit from a service dog to help with stressors and unsafe behavior. The Occupational Therapist described some of the benefits for the service animal as companionship, and social opportunities.

After thorough review and considerations, it has been determined that a service dog cannot support [REDACTED]'s behaviors nor emotional comfort, these are not supported in the CLTS Waiver Manual for a service dog. The services [REDACTED] currently has that can help with these issues are Taekwondo; ninja gym; YMCA swim lessons; Tennis lessons with [REDACTED]; and [REDACTED].

The reason for the CLTS program's inability to provide the requested services is stated in the CLTS waiver manual which is further detailed below.

4.6.2 Assistive Technology

Children's Long Term Wavier Manual Pages 47-50

4.6.2.1 Page 47, Paragraph 5

*This service may also cover the initial purchase, training, and routine veterinary costs for a service animal. As per the Americans with Disabilities Act (ADA), **service animals are dogs trained to perform major life tasks. Wisconsin Stat. § 106.52(1)(fm) states: "Service animal" means a guide dog, signal dog, or other animal that is individually trained or is being trained to do work or perform tasks for the benefit of a person with a disability, including the work or task of guiding a participant with impaired vision, alerting a participant with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items. The tasks of a service animal are trained to***

perform support the participant's disability-related functional impairment(s).

4.6.2.2 Requirements Page 48, Bullet point 2

To qualify as an allowable service animal, the animal is required to be trained to take a specific action when needed to assist the participant who has a disability. The service animal is required to be trained specific to the major life task needed to support the participant and is not otherwise required to have any specific accreditation. All breeds and sizes of dogs can be trained as service animals.

If you do not agree with this decision, you have the right to file a County Grievance and/or an Appeal with the Division of Hearings and Appeals. You do not need to file a grievance before you file an appeal. Please see below for additional information about filing a grievance or appeal.

8. Petitioner filed a timely appeal.

DISCUSSION

The overall purpose of Wisconsin's Children's Long-Term Support (CLTS) Waiver Program is to provide necessary supports and services to children from birth through age 21 in Wisconsin with significant disabilities who meet functional, Medicaid financial and non-financial requirements, and reside in allowable living situations within the community to prevent placement in an institutional setting. The CLTS Waiver Program is a component of Wisconsin's support system for children with disabilities.

The goal of the CLTS Waiver Program is to support children with substantial needs, as well as their parents/guardians, by delivering services to assure the child's health, safety and welfare needs in an inclusive home and community setting. A key tenet of the CLTS Waiver Program is that children are best served within the context of their family and community.

The Department of Health Services (DHS) enters into contractual agreements with Wisconsin's county departments to act as the local agency responsible for operating the CLTS Waiver Program, which includes determining applicants' program eligibility, authorizing covered waiver supports and services, conducting annual recertifications, and operating other long-term support programs that assist in meeting the needs of children and their families.

The county waiver agency authorizes family-centered services and supports based on the assessed need of each child and his or her family to ensure continued health, safety, inclusion in the community and ability to reside in the least restrictive setting. In accordance with 42 CFR §441.301(b)(1)(i), a participant-centered service plan (of care) is developed for each participant employing the procedures specified in Appendix D. All waiver services are furnished pursuant to the service plan. The service plan describes: (a) the waiver services that are furnished to the participant, their projected frequency and the type of provider that furnishes each service and (b) the other services (regardless of funding source, including state plan services) and informal supports that complement waiver services in meeting the needs of the participant. The service plan is subject to the approval of the Medicaid agency. CLTS Waiver, Section 6; see also CLTS Manual, 4.5.

Adaptive aids include controls or appliances which enable people to increase their ability to perform Activities of Daily Living or control the environment in which they live. Adaptive aids also include

services and material benefits which enable children to access, participate and function in the community. CLTS Waiver, Appendix C, page 102; see also CLTS Manual, 4.6.1.1, page 42.

The Waiver states as follows regarding service animals as adaptive aids:

This service may also include the initial purchase of a service animal and routine veterinary costs for a service animal. Wisconsin Statute § 106.52 (1) (fm) states: "Service animal" means a guide dog, signal dog, or other animal that is individually trained or is being trained to **do work or perform tasks for the benefit of a person with a disability**, including the work or task of guiding a person with impaired vision, alerting a person with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items.

As per the Americans with Disabilities Act, service animals are dogs (and in some cases, miniature horses) trained to perform major life tasks to assist people with physical disabilities. For a person to legally qualify to have a service dog, he/she must have a disability that substantially limits his/her ability to perform at least one major life task without assistance.

To qualify as a service dog, the dog must be individually trained to perform that major life task. All breeds and sizes of dogs can be trained as service animals. The federal American Disabilities Act (ADA) does NOT require certification or registration of service animals. While no special accreditation is required by the state of Wisconsin, it is recommended that the Waiver Agency strongly consider service dog certification training to realize the full potential of the assistance provided by the service animal. Food, grooming, and non-routine veterinary care for service animals are excluded.

CLTS Waiver, Appendix C, page 102. See Also CLTS Manual, 4.6.1.2.

In this case, the issue is not whether a service dog is a covered service. The Waiver provisions clearly allow for the purchase and training of a service dog as an adaptive aid to assist with a major life task. In this case, the dispute relates to whether the dog will "do work or perform tasks for the benefit of a person with a disability," and whether petitioner has "a disability that substantially limits his/her ability to perform at least one major life task without assistance" that the dog will perform or provide assistance with.

The agency argued at hearing that the dog is merely being requested for purposes related to social integration, behavioral regulation, and emotional comfort. The agency maintained that there are no plans for the dog to perform tasks for petitioner. Repeatedly, the agency pointed to language in CLTS Manual 4.6.2.1:

service animals are dogs trained to perform major life tasks. Wisconsin Stat. § 106.52(1)(fm) states: "Service animal" means a guide dog, signal dog, or other animal that is individually trained or is being trained to do work or perform tasks for the benefit of a person with a disability, including the work or task of guiding a participant with impaired vision, alerting a participant with impaired hearing to intruders or sound, providing minimal protection or rescue work, pulling a wheelchair, or fetching dropped items...

The agency stresses that for CLTS purposes "service dogs" means guide dogs for visually impaired persons, or signal dogs for hearing impaired persons. This is an incorrect limitation of the language in the

Manual, however. The language above does not limit signal dogs to those with hearing impairments. Furthermore, the language is including those types of dogs only as examples and covers the larger and more inclusive group of **“other animal that is individually trained or is being trained to do work or perform tasks for the benefit of a person with a disability.”**

The US Department of Justice, Civil Rights Division addresses the meaning of “performing tasks” on it’s website relating to the Americans with Disabilities Act. The DOJ explains:

The dog must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert him when his blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind her to take her medication. Or, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

It further explains that comfort, emotional support, or companion animals are not “service animals”:

These terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA. However, some State or local governments have laws that allow people to take emotional support animals into public places. You may check with your State and local government agencies to find out about these laws.

And, with regard to a dog that is intended to mitigate an anxiety attack, the US DOJ explains:

If the dog has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the dog’s mere presence provides comfort, that would not be considered a service animal under the ADA.

See, US DOJ, Civil Rights Division Website: <https://www.ada.gov/resources/service-animals-faqs/>.

In this specific case, the record establishes that the dog is being sought to perform the following supports for petitioner:

- As a safety net for petitioner: alerting adults and caregivers to petitioner’s experiencing a crisis or eloping. The dog would be trained to place itself as a barrier and re-orienting petitioner preventing injurious behavior; and,
- Providing regulation to petitioner by pressure by laying across her lap and eye gaze.

I agree that some of the purposes of the dog appear to be related to the dog’s mere presence, such as making social interaction easier. But, some of the intended reasons for the dog are directly related to actions and interventions that the dog will be trained to perform. The actions listed above are clearly “tasks” and they are trained in order to perform an action that petitioner is not able to accomplish herself due to her disability. The tasks identified are clearly things that will need to be trained by professionals. These are not tasks that just any companion dog will necessarily perform. While this is not a seeing eye

dog, it meets the requirements of a “animal that is individually trained or is being trained to do work or perform tasks for the benefit of a person with a disability.”

CONCLUSIONS OF LAW

Petitioner met its burden to demonstrate that the requested service dog/training will meet the requirements of the CLTS program, and that the request for training should be approved.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency with direction to reverse the denial for the requested service dog training for petitioner. This action must be completed within 10 days 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, 4822 Madison Yards Way, 5th 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.

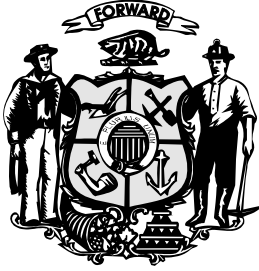
APPEAL TO COURT

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, 201 E. Washington Ave., **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 16th day of December, 2025

\s _____
John Tedesco
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 16, 2025.

Milwaukee Enrollment Services
Bureau of Long-Term Support
[REDACTED]