

State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
5th Floor North
4822 Madison Yards Way
Madison, WI 53705

Telephone: (608) 266-7709
FAX: (608) 264-9885
email: DHAMail@wisconsin.gov
Internet: <http://dha.state.wi.us>

December 26, 2025

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

Vickie Smith
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

RE: [REDACTED]
Case No. CWK - 219225

Dear Parties:

Enclosed is a copy of the Final Decision in the above-referenced matter.

Sincerely,

[REDACTED]

Shannon Buboltz
Legal Associate Supervisor

c: Moraine Lakes Consortium - email
Bureau of Long-Term Support - email
- email



FH
[REDACTED]

STATE OF WISCONSIN
Department of Health Services

In the Matter of

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

DECISION
Case #: CWK - 219225

The attached proposed decision of the hearing examiner dated September 26, 2025 is modified as follows and, as such, is hereby adopted as the final order of the Department.

PRELIMINARY RECITALS

Pursuant to a petition filed on July 16, 2025, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Waukesha County Health and Human Services regarding Children's Community Options funding, a hearing was held on September 2, 2025, by telephone.

NOTE: This decision is being issued as proposed to give the Department of Health Services an opportunity to review this case, because the July 9, 2025 Notice of Action provided appeal rights to the Petitioner, but the enabling statute for the Children Community Options Program limits those appeal rights.

The issue for determination is whether the Division of Hearings and Appeals has jurisdiction to review this appeal, and if so, whether the Waukesha County Department of Health and Human Services (the agency) correctly denied the Petitioner's request for Children's Community Options funding for a safety wagon.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

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

By: Vickie Smith Coordinated Services Division Coordinator
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:
Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waukesha County who has been found eligible for the Children's Community Options Program (CCOP) and the Children's Long-Term Services (CLTS) Waiver Program. (Exhibit 3, pg. 9)
2. Petitioner is four years old. He has been diagnosed with Autism Spectrum Disorder, mixed receptive-expressive language disorder, developmental delay, and neuromuscular disorder. (Exhibit 3, pgs. 1 and 3)
3. He is noted to have a history of trying to elope when in public, particularly if he sees something he wants or is overstimulated. He is also noted to lack situational awareness of potential dangers when he tries to elope. (Exhibit 2, pg. 4; Exhibit 3, pg. 4)
4. Petitioner's Individual Service Plan (ISP) has outcomes that include "tools and resources to help [Petitioner] with his sensory needs", "a safe sensory environment for [Petitioner] to work out his sensory needs", and "to increase his understanding of safety awareness at home and in the community to help him navigate the community safely." (Exhibit 6)
5. On July 1, 2025, the Petitioner's family requested funding for a Wonderfold Stroller Wagon at a cost of \$702.00. (Exhibits 7-10; Testimony of Petitioner's mother)
6. Petitioner's family has already purchased the stroller wagon and seeks reimbursement for the expense. (Testimony of Petitioner's mother)
7. The Wonderfold Stroller Wagon has seating for four, though it is intended only for the Petitioner, and it has five-point harnesses. (Exhibit 11; Testimony of Petitioner's mother)
8. The Petitioner is in the 95th percentile for growth, stands 3'6" tall and weighs 38 pounds. He is able to undo the harness himself. (Testimony of Petitioner's mother)
9. On July 9, 2025, the agency sent the Petitioner's family a notice advising them that the requested funding was denied because it believed the wagon was intended to be used as a restraint. (Exhibit 5)
10. Petitioner's mother, on Petitioner's behalf, filed a request for hearing that was received on August 8, 2025. (Exhibit 1)

DISCUSSION

The Children's Community Options Program (CCOP) is a merger between the former Family Support Program and the Community Options Program allocated to children. The program was established under Wis. Stats. §46.272. The Department of Health Services published the policies and procedures governing the program in the *CCOP Procedures Guide*.¹

The purpose of CCOP is to provide a coordinated and collaborative approach to support families who have a child with a disability, by providing supports and services aimed at achieving desired outcomes that are identified, prioritized, and implemented. Strategies must be flexible, coordinated, and effective, and may include:

- Information, education, and training on advocating on behalf of the child, leadership, and the full array of supports and services available in each community.
- Methods for connecting families with other families (including parents, guardians, self-advocates, siblings, and grandparents) and support groups for mutual support and networking.

¹ <https://www.dhs.wisconsin.gov/publications/p01780.pdf>

- Goods and services that promote identified outcomes, benefit the child, and enhance the family’s long-term support roles.

CCOP Procedures Guide pg. 5

In the case at hand, Petitioner’s family seeks funding to reimburse them for the cost of a safety wagon.

Wis. Stats. §46.272(15) describes the issues that may be appealed:

A child who is denied eligibility for services or whose services are reduced or terminated under this section may request a hearing from the department under s. [227.44](#), except that lack of adequate funding may not serve as the basis for a request under this subsection.

See also

The issue for determination is whether the purchased item is a service, and its denial therefore appealable.

The CCOP Procedure Guide indicates *CCOP Procedures Guide, pg. 41*. “all allowable goods and services covered by CCOP are listed under Services, which includes a good/item received as a service.” This guide contains a “CCOP Standard Program Category (SPC) Codes and Services” table, which contains numerous physical items such as Counseling and Therapeutic Supplies, Assistive Technology, Personal Emergency Response System. *CCOP Procedures Guide, pg. 32*. CCOP Program policy considers “goods” to be a subcategory of “services” without distinguishable appeal treatment.

CONCLUSIONS OF LAW

There is jurisdiction for DHA to review the merits of the Petitioner’s appeal.

THEREFORE, it is

ORDERED

That this decision is adopted by the Secretary of the Wisconsin Department of Health Services (DHS) as the Final Decision, and the petition is 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, 4822 Madison Yards Way, Madison, WI 53705-9100 **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 State of Wisconsin Department of Health Services, 201 E. Washington Avenue, Rm E200B, PO Box 7850, Madison, WI 54703 **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 request (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 26th day
of December, 2025.



Kirsten L. Johnson, Secretary
Department of Health Services



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

PROPOSED DECISION
Case #: CWK - 219225

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By: Vickie Smith Coordinated Services Division Coordinator
Waukesha County Health and Human Services
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Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:
Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

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CCOP Procedures Guide pg. 5

In the case at hand, Petitioner's family seeks funding to reimburse them for the cost of a safety wagon.

Wis. Stats. §46.272(15) describes the issues that may be appealed:

A child who is denied eligibility for services or whose services are reduced or terminated under this section may request a hearing from the department under s. [227.44](#), except that lack of adequate funding may not serve as the basis for a request under this subsection.

See also CCOP Procedures Guide, pg. 41.

The appeal rights in this case are limited by the express language in the statute and administrative law judges cannot create jurisdiction where none legally exists. The denial of funding for specific goods and services is not listed as an appealable issue, and the denial of funding for a stroller wagon does not constitute the denial of eligibility for the program, a reduction of an existing service, or the termination of services. As such, this dispute is not included in the limited appeal right set forth by statute, and DHA does not have jurisdiction to review the appeal on its merits. This limited hearing right was unknown to the ALJ at the time of hearing, however, it cannot be ignored now.

Even if jurisdiction did exist to review the merits of the Petitioner's appeal, it does not appear that direct payments can be made to families for goods already purchased. While the CCOP Procedures Guide states that direct payment can be made to families for completed *services*, it does not state that direct payments may be made to families for *goods* already purchased:

Payment Methodologies for Goods and Services Administering agencies' payments for CCOP-funded services and supports must reflect actual costs incurred and may take a variety of forms, including:

- A voucher
- Direct payment to the vendor
- Direct reimbursement to the family for completed services
- Advance payment to the family for approved goods and services (advance payments must be reconciled to actual costs prior to the end of the contract year)

CCOP Procedures Guide, pg. 14

So, for that reason, also, Petitioner's appeal must be dismissed.

The Petitioner and his family might think this decision is unfair, but it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions.

CONCLUSIONS OF LAW

There is no jurisdiction to review the merits of the Petitioner's appeal.

THEREFORE, it is

ORDERED

That if, and only if, this proposed decision is adopted by the Secretary of the Wisconsin Department of Health Services (DHS) as the Final Decision, the petition is dismissed.

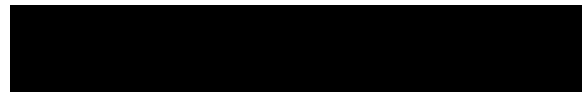
NOTICE TO RECIPIENTS OF THIS DECISION

This is a Proposed Decision of the Division of Hearings and Appeals. IT IS NOT A FINAL DECISION AND SHOULD NOT BE IMPLEMENTED AS SUCH. If you wish to comment or object to this Proposed Decision, you may do so in writing. It is requested that you briefly state the reasons and authorities for each objection together with any argument you would like to make. Send your comments and objections to the Division of Hearings and Appeals, P.O. Box 7875, Madison WI 53707-7875. Send a copy to the other parties named in the original decision as 'PARTIES IN INTEREST'.

All comments and objections must be received no later than 15 days after the date of this decision. Following completion of the 15-day comment period, the entire hearing record together with the Proposed Decision and the parties' objections and argument will be referred to the Secretary of the Department of Health Services for final decision making.

The process relating to the Proposed Decision is described in Wis. Stat. §227.46(2).

Given under my hand at the City of Milwaukee,
Wisconsin, this 26th day of September, 2025



Mayumi M. Ishii
Administrative Law Judge
Division of Hearings and Appeals