



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

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In the Matter of

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

**DECISION**  
Case #: CWK - 220881

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on November 20, 2025, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Trempealeau County Department of Social Services (“the agency”) regarding the Children’s Long Term Support Program, a hearing was held on January 8, 2026, by telephone.

The issue for determination is whether the agency properly terminated Petitioner’s Children’s Long Term Support waiver services based on a finding that she is no longer functionally eligible for the 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: Melissa Frank

Trempealeau County Department of Social Services  
36245 Main St.  
PO Box 67  
Whitehall, WI 54773-0067

**ADMINISTRATIVE LAW JUDGE:**

Teresa A. Perez  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 7-year-old resident of Trempealeau County who receives Children's Long Term Support (CLTS) waiver services since approximately May 2024.
2. Petitioner has a diagnosis of autism spectrum disorder.
3. Petitioner has self-injurious behaviors (i.e., chewing her hair and putting toys and other things in her mouth that should not be there more than four days per week).
4. Petitioner is upset by having her face or ears get wet and needs both physical help and step-by-step cueing instructions when washing those areas and also when washing and rinsing her hair.
5. Petitioner requires the following assistance with dressing: shirts and underwear are laid out for her to ensure that she puts them on correctly because Petitioner does not understand "backwards"; hands-on help with putting pants and shoes on more than half of the time; shoes / boots are placed so that Petitioner can put the right shoe / boot on the right foot and left shoe / boot on the left foot; Petitioner can put on her coat but requires caregiver to zip it; Petitioner can put on her hat but requires caregiver to put her gloves on.
6. Petitioner requires both physical intervention and step-by-step cueing during grooming tasks. For example, she requires reminders to brush her teeth, often eats toothpaste off of brush, and requires her caregiver to brush her hair.
7. Petitioner has urinary incontinence overnight.
8. Petitioner requires assistance with hygiene after she toilets. She avoids defecating during the school day because no one is available to assist her with pericare, and arrives home with wet underwear as a result of not drying herself after urinating.
9. Petitioner is able to talk with people but she cannot describe her feelings, particularly when upset, and instead communicates by crying--sometimes so hard that she makes herself vomit. When she is upset, she is unable to use words or to calm herself down. This happens every week to every other week.
10. Petitioner cannot follow related three-step instructions that are not routine nor can she follow two single step instructions that are given at the same time that are neither related nor routine. Petitioner does not know common opposites (e.g., soft/hard, tall/short).
11. Petitioner has an IEP and receives four sessions per week of PT/OT/SLP services through her school district. In addition, her classroom teacher and aides assist her all throughout the day with follow-through of activities recommended by her PT/OT/SLP.
12. In April 2024, the agency first evaluated whether Petitioner was functionally eligible for the CLTS Program. As part of that process, the agency completed a long-term care functional screen (LTCFS) which resulted in a finding that Petitioner met criteria to be included in the developmental disability target group and that she was functionally eligible for CLTS.
13. In October 2025, an agency staff member met with Petitioner, her mother, and her sister, who is also Petitioner's caregiver, and gathered information necessary to complete an updated LTCFS as

part of the CLTS Program annual renewal process. The agency staff member also reviewed medical records and Petitioner's current and previous IEP. The LTCFS completed at that time resulted in a finding that Petitioner was no longer functionally eligible for CLTS. The agency then reviewed the LTCFS and made some changes. Even after these changes, the LTCFS algorithm directed a finding that Petitioner was no longer functionally eligible.

14. By notice dated November 7, 2025, the Department of Health Services informed Petitioner that her "program enrollment has ended or is scheduled to end on 11/21/2025 due to [sic] Not Functionally Eligible."
15. Petitioner filed an appeal of the agency's finding that she is no longer functionally eligible.

### DISCUSSION

The overall purpose of Wisconsin's Children's Long-Term Support Waiver Program ("CLTS Program") is The CLTS program is federally authorized under §1915(c) of the Social Security Act. to provide necessary supports and services to children from birth through age 21 in Wisconsin who have significant disabilities and who require a level of support that would qualify them for institutional care but who reside at home or in the community. Children must also satisfy Medicaid financial and non-financial requirements to be eligible for the CLTS Program. A key tenet of the CLTS Program is that children are best served within the context of their family and community. See *Medicaid Home and Community-Based Services (HCBS) Waiver Manual for the CLTS Program ("CLTS Manual")*, Chapter 2.

To be eligible for CLTS, the applicant must fall within one of three target groups (i.e., mental health disability, physical disability, or intellectual disability) and have a qualifying institutional level of care (LOC). The institutional LOCs are: intermediate care for individuals with intellectual disabilities (ICF/IID), psychiatric hospital, nursing home, and hospital. Policies developed by the Department of Health Services, the state agency responsible for administering the CLTS Program, set forth the criteria that must be met for a child to be included in a target group as well as criteria for assessing a child's level of care. These policies can be found in the *Medicaid Home and Community-Based Services (HCBS) Waiver Manual for the CLTS Waiver Program ("CLTS Manual")*, most recently updated in October 2025, and *Institutional Levels of Care: Children's Long Term Support Programs in Wisconsin ("LOC Manual")*, most recently updated in May 2022.

In the present case, the agency concluded that Petitioner is no longer functionally eligible for the CLTS Program. It is a well-established principle that a moving party generally has the burden of proof, especially in administrative proceedings. *State v. Hanson*, 295 N.W.2d 209, 98 Wis. 2d 80 (Wis. App. 1980). The court in *Hanson* stated that the policy behind this principle is to assign the burden to the party seeking to change a present state of affairs. In the present matter, that means that the agency has the burden to prove that Petitioner is no longer functionally eligible for the CLTS Program. To meet that burden, a preponderance of the credible evidence in the record must demonstrate that the proposed termination is proper.

The agency, as it is required to do by the federally approved waiver and state policy, used the automated Long Term Care Functional Screen (LTCFS) to reach that determination. The LTCFS is a tool that the State of Wisconsin has developed with the goal of facilitating objective and consistent functional eligibility determinations. When completing a LTCFS, an agency staff member collects information including but not limited to a child's diagnoses, mental health status, symptoms, and needed services, and challenges in completing various tasks. The LTCFS's underlying algorithm then "calculates" the child's functional eligibility, including whether the child has an institutional level of care, based on the information entered by agency staff.

The Division of Hearings and Appeals evaluates not whether agency staff correctly followed LTCFS completion instructions but whether or not the legal standards that the LTCFS is designed to evaluate are met. Petitioner was previously determined, via use of the LTCFS, to require an ICF / IID level of care. The legal standard for evaluating that level of care is as follows:

**Intermediate Care Facility Level of Care for Individuals with Developmental Disabilities**

A child with an ICF/MR - Developmental Disability (DD) Level of Care has a permanent cognitive disability, substantial functional limitations and a need for active treatment. The level of care criteria is based upon the child having needs similar to people in an intermediate care facility for children with intellectual disabilities (ICF/IID). The intensity and frequency of interventions for the child’s functional limitations must be so substantial that the child is at risk for institutionalization within an ICF/IIR without them  
 . . .

A child may be assigned this level of care if the child meets **ALL THREE of the criteria listed below** for Developmental Disability. The criteria are:

1. The child has a diagnosis of a **Cognitive Disability or related condition**
2. The child demonstrates **Substantial Functional Limitations** in three or more of the following areas: self-care / activities of daily living, understanding and use of language, learning, social competency/self-direction, mobility, and capacity for independent living that are expected to last a year or longer; and
3. The child has the **Need for Active Treatment**.

*LOC Manual*, pp. 4 - 9.

The agency presented copies of the prior and current long term care functional screens and helpfully highlighted which inputs had changed. However, nothing in the record showed which substantial functional limitations Petitioner was found to have met when she was found to be functionally eligible or which substantial functional limitations Petitioner was found to no longer meet upon completion of the most recent LTCFS. Moreover, the agency representative testified that she, in her role as the screener’s supervisor, and the screener reviewed medical records and IEPs when updating Petitioner’s LTCFS. None of those documents were presented as evidence despite the agency relying on information included in those documents to make some changes to Petitioner’s LTCFS. The agency representative also asserted that Petitioner’s mother and sister offered sworn testimony that varied from information provided to the screener. However, the screener was not present at the hearing and the agency representative was not present at the screening.

For these reasons, I find that the agency has not met its burden and has therefore not established that Petitioner was properly found to be no longer functionally eligible for the CLTS Program.

**CONCLUSIONS OF LAW**

There is insufficient evidence in the record to show that Petitioner no longer meets CLTS Program functional eligibility criteria.

**THEREFORE, it is**

**ORDERED**

That the matter is remanded to the agency to take the administrative steps needed to reinstate Petitioner's eligibility for the CLTS Program and to send written notification that it has done so to Petitioner. The agency shall comply with these instructions within ten 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, 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.

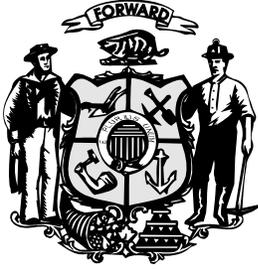
**APPEAL TO COURT**

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, 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 6th day of February, 2026

\s \_\_\_\_\_  
Teresa A. Perez  
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 6, 2026.

Trempealeau County Department of Soc Services  
Bureau of Long-Term Support

