



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: MKB - 221000

PRELIMINARY RECITALS

Pursuant to a petition filed November 25, 2025, under Wis. Stat., §49.45(5), to review a decision by the Division of Medicaid Services (DMS) to deny eligibility for Katie Beckett Medical Assistance (MA), a hearing was held on February 11, 2026, by telephone. A hearing set for January 14, 2026 was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly determined that petitioner is not disabled for Katie Beckett MA purposes.

PARTIES IN INTEREST:

Petitioner:

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

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703

By: Cindy Anderson
Division of Medicaid Services
PO Box 309
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 12-year-old resident of Dane County.

2. Petitioner has autism and ADHD. He is in his age-appropriate grade in school. He has an IEP. He has some accommodations in school such as movement breaks and extra time for assignments. He is able to do his own activities of daily living (ADLs) but has deficits in instrumental ADLs. He gets 20 minutes weekly each of speech therapy and emotional skills training at school. He has developed a friend group this school year.
3. By a notice dated November 3, 2025, the DMS informed petitioner that he did not qualify for Katie Beckett MA because he did not meet disability criteria. He qualified for the Children's Long-Term Support Program.

DISCUSSION

The purpose of the "Katie Beckett" waiver is to encourage cost savings to the government by permitting children under age 18, who are totally and permanently disabled under Social Security criteria, to receive MA while living at home with their parents. Wis. Stat., §49.47(4)(c)1m. The DMS is required to review "Katie Beckett" waiver applications in a five-step process. The first two steps are to determine whether the child is disabled and whether the child requires a level of care that is typically provided in a hospital, nursing home, or ICF-MR. The remaining three steps are assessment of appropriateness of community-based care, cost limits of community-based care, and adherence to income and asset limits for the child.

"Disability" is defined as an impairment or combination of impairments that substantially reduces a child's ability to function independently, appropriately, and effectively in an age-appropriate manner, for a continuous period of at least 12 months. The current definition of a disabling impairment for children is as follows:

If you are a child, a disabling impairment is an impairment (or combination of impairments) that causes marked and severe functional limitations. This means that the impairment or combination of impairments:

- (1) Must meet or medically or functionally equal the requirements of a listing in the Listing of Impairments in appendix 1 of Subpart P of part 404 of this chapter, or
- (2) Would result in a finding that you are disabled under § 416.994a.

20 C.F.R. §416.911(b). §416.994a referenced in number (2) describes disability reviews for children found disabled under a prior law.

The process of determining whether an individual meets this definition is sequential. See 20 C.F.R. §416.924. First, if the claimant is doing "substantial gainful activity," he is not disabled and the evaluation stops. Petitioner is not working, so he passed this step.

Second, physical and mental impairments are considered to see if the claimant has an impairment or combination of impairments that is severe. If the impairment is a slight abnormality or a combination of slight abnormalities that causes no more than minimal functional limitations, it will not be found to be severe. 20 C.F.R. §416.924(c). Petitioner was determined to meet this step.

Next, the review must determine if the claimant has an impairment(s) that meets, medically equals or functionally equals in severity any impairment that is listed in appendix 1 of subpart P of Part 404 of the regulations. The agency found that petitioner does not meet the listings. I reviewed listing nos. 112.10 for Autistic Disorder and 112.11 for ADHD. To be eligible under both listings the child must have marked impairments in two of the following: cognitive/communicative functioning, social functioning, personal functioning, and maintenance of concentration, pace, and persistence. If the child does not meet a listing,

the review moves to the next step. I will move there immediately because the next step incorporates the listing areas but adds two additional areas (motor control and physical health).

I note here that the listing for congenital heart disease also was reviewed. However, since petitioner had surgery to correct the problem, the issue has largely been resolved, and it is evident that he does not meet the listing.

If a child does not meet or equal the Listings, the last step of the analysis is the assessment of functional limitations as described in sec. 416.926a of the regulations. This means looking at what the child cannot do because of the impairments in order to determine if the impairments are functionally equivalent in severity to any listed impairment. The child must have marked impairments in two of the following six domains: (1) cognitive/communicative functioning, (2) social functioning, (3) personal functioning, (4) maintaining concentration, persistence, and pace, (5) motor control, and (6) physical health. To be found disabled, the child must have marked limitations in two of the six areas, or an extreme limitation in one of the areas. 20 C.F.R. §416.926a(b)(2).

"Marked" limitation and "extreme" limitation are defined in the regulations at 20 C.F.R. §416.926a(e). Marked limitation means, when standardized tests are used as the measure of functional abilities, a valid score that is two standard deviations below the norm for the test (but less than three standard deviations). For children from ages three to age eighteen, it means "more than moderate" and "less than extreme". The regulation provides that a marked limitation is evident when an impairment(s) "interferes seriously with your ability to independently initiate, sustain, or complete activities." In comparison, "extreme" limitation means a score three standard deviations below the norm or, for children ages three to age eighteen, meaning that the impairment "interferes very seriously with your ability to independently initiate, sustain, or complete activities."

Reviewing the six areas, I cannot find any that would be considered marked limitations. His physical health is normal since the heart surgery. There is no mention of issues with motor control. He is able to do his own ADLs. He has deficits in communication, social function, and concentration, but none of the deficits need to be addressed with intensive interventions. While in the past he may have met a marked status in social functioning, currently he is getting along well with classmates. He is doing well, which is great for his lifestyle but results in him failing the disability standards.

At present I agree with the findings that petitioner does not meet the definition of disability. If changes occur, petitioner's mother can always apply for the program again.

CONCLUSIONS OF LAW

The DMS correctly determined that petitioner is not disabled for Katie Beckett MA purposes.

THEREFORE, it is

ORDERED

That the petition for review is hereby 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, 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.

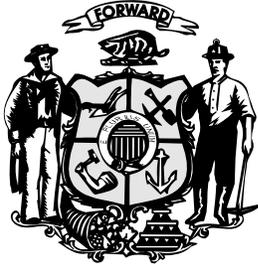
APPEAL TO COURT

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 17th day of February, 2026

\s _____
Brian C. Schneider
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 17, 2026.

Bureau of Long-Term Support
Division of Health Care Access and Accountability