



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

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In the Matter of

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

**DECISION**  
Case #: CWK - 221052

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on December 4, 2025, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services regarding Medical Assistance (MA), a hearing was held on February 6, 2026, by telephone. The hearing was previously rescheduled at the request of the Petitioner's guardian.

The issue for determination is whether the CLTS agency correctly denied funding for a standard, non-adapted backyard playset.

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 Vervelde and Amanda Pax  
Marathon County Department of Social Services  
400 E. Thomas Street  
Wausau, WI 54403

**ADMINISTRATIVE LAW JUDGE:**

Jason M. Grace  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is a 10 year-old resident of Marathon County. She is enrolled in the CLTS program.
2. The Petitioner has diagnoses that include ADHD, delayed social/emotional development, sensory processing difficulty with developmental coordination delays related to Ehlers Danlos Syndomre, joint hypermobility, abnormal gait, and achilles tendon contractures.
3. The family has a backyard swing set, slide, and climber that was purchased with private funds. The family has concluded it is no longer appropriate or safe for Petitioner to use given her size and weight. As such, the family requested that the CLTS program purchase SwingSesh Supersesh playground equipment at a cost of approximately \$9,555.00, plus installation.
4. Petitioner’s psychiatrist, [REDACTED], provided the CLTS agency a letter of support containing the following information:

... I am writing to support the request for additional funding to provide adaptive playground or exercise equipment, such as the SwingSesh fitness play-set, for my patient’s home environment. There is evidence that access to engaging, developmentally appropriate play equipment is critical for the promotion of physical literacy, motor skill development, and social-emotional engagement of children. This would greatly benefit my patients as their parents have disabilities that limit their ability to engage in physical activity.

5. By notice dated September 4, 2025, the CLTS agency denied the request for the SwingSesh playground equipment on the following grounds, in relevant part:

... The goal identified by the family was to promote homeostasis. This was further broken down to include needs such as promoting balance, coordination, emotional regulation, sensory input, family inclusion, fitness, and safety. ...

The CLTS Waiver Program is designed to support children with significant functional limitation in living safely and fully in their homes and communities. All services and supports authorized under the waiver must: directly address the enrolled child’s disability-related needs, be allowable under an established service category in the CLTS Waiver Manual; be medically necessary for the enrolled participant, be cost-effective, and be unavailable through other funding sources, as CLTS is the payor of last resort. Your request for waiver funding of the SwingSesh playset is denied based on the following:

Under Section 4.6.28-Specialized Medical and Therapeutic Supplies, covered items must be specialized or adaptive in nature and designed specifically to address disability-related needs. The SwingSesh is commercially available recreational play structure used by children with and without disabilities. While it may offer therapeutic value, it is not considered medical or adaptive device, therefore does not meet criteria under this service category.

....

Eligibility, supports, and services under the CLTS Waiver are based on the enrolled child’s needs. While the recommendation letter referenced the parent’s physical limitation and desire for inclusive play, waiver funding decisions cannot consider

parental disabilities or convenience under the specialized medical and therapeutic code. ...

CLTS Waiver services are intended to support community participation, not replicate community resources at home. The SwingSesh is designed for private backyard use and does not promote community integration. Section 4.6.28 Specialized Medical and Therapeutic Supplies of the waiver manual discusses community integration. While the family shared concerns about overstimulation, temperature sensitivity, and accessibility issues at parks, waiver funding can only support in-home resources when no safe, accessible community option exist, and medical necessity demonstrated. The child currently has seven full days per month and 22 hours per week of respite care authorized. These services increased in February 2025 and July 2025, with increased mileage reimbursement for provider as well to support community outings, including parks, while receiving respite care. Respite providers regularly utilize park outings to promote regulation, physical activity, and inclusion.

A previous request for a backyard swing set/climber was denied in March 2025 as a recreational item. The current request does not present new medical documentation or justification that would change the program’s position. While a letter was received by the support service coordinator by a psychiatrist that works with the family, the benefits discussed in the letter reference access to “engaging, developmentally appropriate play equipment is critical for the promotion of physical literacy, motor skill development, and social emotional regulation in children” which is a general need for all children, not just those with disabilities. ...

6. The petitioner timely appealed.
7. Neither party submitted a copy of the Petitioner’s CLTS service plan.

### 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 (“CLTS Manual”), with a current update as of December 2025. It can be found on the internet at <https://www.dhs.wisconsin.gov/publications/p02256.pdf>.

There is no dispute that the Petitioner is eligible for the CLTS program. The only issue is whether the waiver agency was correct in denying Petitioner’s request for the SwingSesh backyard playset.

Included in the CLTS benefits package are Specialized Medical and Therapeutic Supplies. The CLTS Manual provides the following:

#### 4.6.28 Specialized Medical and Therapeutic Supplies

##### 4.6.28.1 Definition

Specialized medical and therapeutic supplies maintain the participant’s health, manage a medical or physical condition, improve functioning, or enhance independence.

This service includes items that prevent regression of a participant's condition, maximize integration within the community, and promote and enhance peer interaction and social inclusion. Allowable items may include the following (items listed are illustrative examples and not an exhaustive list):

- Items and aids designed to augment a professional therapy or treatment plan.
- Items and aids to support environmental regulation assessed as necessary for the participant's condition.
- *Adaptive aids*

Examples of adaptive aids include (items listed are illustrative examples and not an exhaustive list):

- Accessible computer keyboards
- Adaptive accessories
- Adaptive bikes or tricycles
- Adaptive door handles and locks
- Adaptive security systems
- Control switches and pneumatic devices including sip and puff controls
- Electronic control panels
- Environmental control units
- Hygiene and meal preparation aids
- Over the bed tables
- Scald-preventing showerhead
- Specialized clothing
- Standing boards or frames
- Talking alarm clocks
- ...

#### 4.6.28.6 Service Documentation

- For items costing in excess of \$2,000, the CWA is required to maintain documentation from a rehabilitation organization, physical therapist, occupational therapist, physician, or other professional with comparable training and experience that indicates the purchase is appropriate to the needs of the participant.
- ...

CLTS Manual, § 4.6.28 (*emphasis added*).

The CLTS service category of Participant and Family Directed Goods and Services has an exclusion that the good/services cannot be primarily for recreation. See CLTS Manual 4.6.21.4.

The CLTS agency found that the requested backyard playset did not meet approval criteria under the above-cited provisions as it was not an adaptive aide or specialized medical equipment. The item is a standard backyard playset, not adapted or otherwise modified to meet a disability or limitation. To further illustrate the bounds of the program, the agency noted that the CLTS program would not fund a standard two wheeled bicycle. However, when the participant's needs so required, the CLTS program would fund adaptations to the bicycle, such as training wheels, or a similar mobility device modified to the needs of the participant, such as tricycle.

This is not the first time that the DHA has been asked to review the CLTS agency's differentiation of adaptive and non-adaptive backyard swing set/playset. In DHA Case No. CWK-197911 (an appeal by a different CLTS participant), the CLTS agency denied the request for a standard swing set frame as it was

not adaptive equipment. Id. The program did, however, approve the request for *adaptive* playground equipment that attached to the standard swing set frame. Id. The DHA upheld the CLTS agency's determination, finding that the CLTS program correctly denied the frame of a swing set in its discretion to differentiate between adaptive and non-adaptive equipment. Id. That decision was found persuasive as to the issue involved here.

The cost of the playset at issue in this case was approximately \$9,500.00, thereby requiring documentation from a qualified professional indicating the specific playset being requested "...is appropriate to the needs of the participant." CLTS Manual, § 4.6.28.6. In the instant case, the letter from the Petitioner's psychiatrist supports "*adaptive* playground or exercise equipment." See Finding of Fact 4 above (emphasis added). There is no showing there is anything adaptive about the SwingSesh playset that is being requested. The letter also does little more than provide a general statement as to the benefits of access to appropriate play equipment. It does not detail the basis for the finding that the playset being requested appropriately addresses Petitioner's specific medical conditions or unique needs. It reinforces the conclusion that the playset's function is primarily for recreational purposes which is specifically excluded by program policy. See CLTS Manual, § 4.6.21.4.

Based on the record before me, the Petitioner has not demonstrated that the CLTS agency's denial of the request to fund the playset was an error.

**CONCLUSIONS OF LAW**

The CLTS program correctly denied funding for a standard, non-adapted backyard playset.

**THEREFORE, it is** **ORDERED**

That Petitioner's appeal 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, 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**

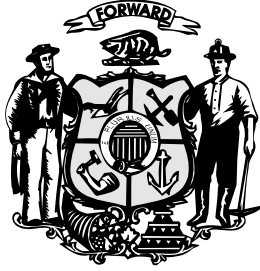
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 201 E. Washington Ave., **and** on those identified in this decision as "PARTIES 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 19th day of March, 2026

\s \_\_\_\_\_  
Jason M. Grace  
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 March 19, 2026.

Marathon County Department of Social Services  
Bureau of Long-Term Support

