



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



**DECISION**

Case #: CWK - 210876

**PRELIMINARY RECITALS**

Pursuant to a petition filed on November 1, 2023, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services for the Department of Health Services regarding the coverage of relocation services under the Children’s Long Term Support program, a hearing was held on November 29, 2023, by telephone. A prior hearing date of November 22, 2023, was rescheduled at petitioner’s request. Post hearing, the record was held open to allow for the submission of closing arguments and a response. All post hearing submissions were received timely.

The issue for determination is whether the respondent correctly denied certain reimbursement requests pertaining to relocation services

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Petitioner's Representative:

Attorney Tim Hennigan  
ABC For Health, Inc.  
32 N Bassett St.  
Madison, WI 53703

Respondent:

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

By: Attorney Vanessa Kuettel, on behalf of DHS and the  
Fond Du Lac County Department of Social Services  
50 N Portland St  
Fond Du Lac, WI 54935

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dodge County. Petitioner is diagnosed with several debilitating conditions and has been enrolled in the Children's Long Term Support (CLTS) waiver program for several years.
2. Petitioner resided in an apartment located on [REDACTED]. The building and the apartment specifically, were not well suited to accommodate petitioner's wheelchair or crutches. As a result, petitioner was in a state of such pain and mental anguish that she confined herself in a single corner of the apartment and suffered from suicidal ideation. Ex. P-H.
3. On January 11, 2023, petitioner's mother requested funding for relocation services from the respondent pursuant to § 4.6.25 of the CLTS Medicaid Home and Community-Based Services (HCBS) Waiver Manual for the CLTS Waiver Program (CLTS Manual), excerpted in Exhibit P-J.
4. On February 16, 2023, the respondent denied the relocation services request by way of a Notice of Adverse Action (NOA). The respondent stated that the Bureau of Children's Services "had determined that the requested service does not fit within the CLTS Coordination of Benefits Policy." Exhibit P-B.
5. Petitioner renewed the relocation services funding request with additional documentation, and was again denied on March 10, 2023. Exhibit P-A.
6. On April 24, 2023, petitioner filed an appeal of the denial of her request for relocation services funding with the Department of Administration's Division of Hearings and Appeals. Exhibit P-K.
7. Following a hearing, a decision was issued on July 10, 2023, and the matter was remanded to the respondent to approve petitioner's request for relocation services funding of her move to her present [REDACTED] apartment. DHA Case No. CWK 208407.
8. On or about August 21, 2023, the petitioner submitted a request for reimbursement of specific relocation expenses. On September 12, 2023, the respondent responded with a detailed determination of the reimbursement requests that it would cover and those that it would not; the denials of certain requests were based upon duplication of services, cost-effectiveness and requests that are not permitted under CLTS relocation services policy. Exhibit R-002 and Testimony of Lindsay Knight.
9. On November 1, 2023, the petitioner filed an appeal of the respondent's denial of certain relocation expenses.

## DISCUSSION

The CLTS program started in Wisconsin on January 1, 2004. Supported with MA funds, the CLTS program serves persons under the age of 22 who have a developmental disability, physical disability, or a severe emotional disturbance. The Wisconsin Department of Health Services released the Medicaid Home and Community-Based Services (HCBS) Waiver Manual for the CLTS Waiver Program (Manual) to assist in administering the CLTS program. See, online at <https://www.dhs.wisconsin.gov/waivermanual/index.htm>.

The Manual defines what encompasses relocation services, and the limitations on the funding of said services, as follows:

#### 4.6.25.1 Definition

Relocation services assist with preparations for the participant’s relocation to a safe and accessible community living arrangement.

This service includes supports and essential items needed to establish a community living arrangement for children or youth who are relocating from an institution, foster home or who are moving out of the family home to a less restrictive or independent setting.

Relocation services may include the purchase of the following, as necessary, to prepare the selected living arrangement for occupancy by the participant:

- Household furnishings not otherwise included in a rental agreement, if applicable
- Phone(s)
- Cooking and/or serving utensils
- Basic cleaning equipment
- Household supplies
- Security deposit
- Utility connection costs
- Phone installation charges
- Moving the child’s or youth’s personal belongings to the new living arrangement
- General cleaning and household organization services related to the relocation

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#### 4.6.25.3 Service Limitations

- Relocation services are limited to items and products and do not include services delivered by caregivers (persons who have regular, direct contact with the participant). Page 127 of 210
- This service excludes funding for physical alterations of a person’s home to address accessibility. (Refer to the home modifications benefit.)
- This service may not duplicate any service that is provided under another waiver service category.
- The CLTS Waiver Program is the payer of last resort and is not a source of funding for any service that would otherwise be responsibility of another public or private entity. The following programs and services must be considered prior to using waiver funding and, where applicable, be incorporated into a comprehensive plan for participants:
  - o Public benefits, energy assistance, or other poverty-related services
  - o Court-ordered, juvenile justice, or child protective services, including protective placement and guardianship or legal services
  - o Any goods or services covered by a third party, including private insurance or Medicaid, such as:
    - ♣ Early and Periodic Screening, Diagnostic and Treatment (EPSDT) benefit (known in Wisconsin as HealthCheck Other Services), which provides comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid or the Medicaid state plan services.
    - ♣ Mental health services that are otherwise available.

- o Educational or other services funded by the Department of Public Instruction or Individuals with Disabilities Education Act.
- o Prevocational or other services offered through the Department of Workforce Development, Division of Vocational Rehabilitation.

4.6.25.4 Service Exclusions

This service excludes the purchase of food, the payment of rent, or the purchase of devices or services used primarily for leisure or recreation.

Manual, § 4.6.25.

The respondent argued that petitioner requested reimbursement for packing, moving, and unpacking services performed by [REDACTED] ([REDACTED]), [REDACTED] ([REDACTED]), and [REDACTED] ([REDACTED]). She also requested reimbursement for a new provider to move twenty-one boxes from storage and unpack those boxes. She further requested reimbursement for the continued payment of the storage fees for those boxes.

The CLTS Program partially denied the reimbursement request submitted for [REDACTED], denied the reimbursement request submitted for [REDACTED], denied the reimbursement request submitted for [REDACTED] (father of petitioner), and denied the reimbursement request for a new provider to move and unpack boxes from storage. The CLTS approved the reimbursement request for payment of the storage fees through October 31, 2023.

The respondent asserted that the CLTS Program’s decision to partially deny the reimbursement request submitted for [REDACTED] and to deny the reimbursement requests submitted for [REDACTED] and [REDACTED] was reasonable and consistent with CLTS Waiver requirements, as CLTS funds cannot be used to pay for duplicative services nor can CLTS funds be used to pay for non-transportation services provided by a parent. The respondent cited the Manual § 4.6.25.3 and the CLTS Waiver, Appendix C: Participant Services, C-2: General Service Specifications, e. Other State Policies Concerning Payment for Waiver Services Furnished by Relatives/Legal Guardians in support of its position.

Petitioner argued that the agency’s failure to properly address the reimbursement request when it was initially made resulted in the additional increased relocation costs. Petitioner’s attorney specifically argued in his hearing brief that:

[REDACTED] [petitioner] also has a strong personal connection with her belongings and reacts negatively when she feels her things are not being properly respected. Portions of the move conducted while [REDACTED] was present had to include [REDACTED] involvement so that she could feel some agency. To complete the move, [REDACTED] [petitioner’s mother] would like to make sure [REDACTED] remains involved. Her plan is to have [REDACTED] go through each box and lay out [REDACTED] items so that she can direct where they are unpacked. Her rough estimate for this process is 3 hours per box for each of the 20 boxes remaining. [REDACTED] charges \$64/hr.

Despite these factors, [REDACTED] has made several notable efforts to keep costs down. She carried boxes alongside the movers, working through a shoulder injury. She struck a deal with a neighbor who will allow her to store remaining boxes free of charge in their apartment as she finishes the move. She brought in additional workers (who bill at a much lower rate) to help out during the days when the movers could spare a truck. She

carefully separated out her belongings from [REDACTED] as best she could in order to limit her request to only the portion of the move related to her daughter’s things.

Petitioner’s Brief, pp. 5-6.

I have reviewed the documentation and testimony received in this matter, and conclude that the respondent properly considered the reimbursement requests and correctly determined a partial denial of the reimbursement request submitted for [REDACTED] and full denial of the reimbursement requests submitted for [REDACTED] and [REDACTED] in accord with CLTS Waiver requirements. Furthermore, I find that the denial of storage costs after October 31, 2023, was reasonable considering the timeline of this matter.

The documentation reveals a somewhat chaotic and challenging relocation, which was exacerbated by the respondent’s initial denial of all relocation services reimbursement. The decision remanding this matter to approve relocation services was issued in July of 2023, and the petitioner’s reimbursement requests were made in September of 2023. As opposed to the situation involved with the initial denial, the respondent’s Fall review of the reimbursement requests was comprehensive and detailed, and properly applied CLTS policy based on the information that it had available at the time of the requests. The petitioner has not substantively rebutted the respondent’s asserted bases for the specific reimbursements denials or otherwise identified erroneous determinations warranting further remand of this matter.

**CONCLUSIONS OF LAW**

1. The respondent properly considered the reimbursement requests and correctly determined a partial denial of the reimbursement request submitted for [REDACTED] and full denial of the reimbursement requests submitted for [REDACTED] and [REDACTED] in accord with CLTS Waiver requirements.
2. The denial of storage costs after October 31, 2023, was reasonable considering the timeline of this matter

**THEREFORE, it is**

**ORDERED**

The petitioner’s appeal 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, 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**

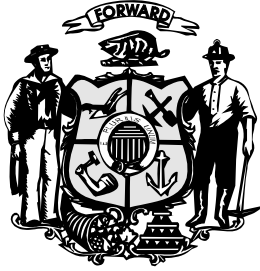
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 2nd day of February, 2024



\s \_\_\_\_\_  
Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



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The preceding decision was sent to the following parties on February 2, 2024.

Fond Du Lac County Department of Social Services  
Bureau of Long-Term Support  
Attorney Tim Hennigan  
Attorney Vanessa Kuettel