



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

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In the Matter of



**DECISION**  
Case #: MKB - 211904

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on January 28, 2024, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03(1), to review a decision by the Bureau of Long-Term Support regarding Medical Assistance (MA), a hearing was held on March 13, 2024, by telephone.

The issue for determination is whether Petitioner meets the legal standard for disability required to establish eligibility for Medical Assistance benefits through the Katie Beckett program.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Cynthia Anderson  
Bureau of Long-Term Support  
PO Box 7851  
Madison, WI 53707-7851

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner is an eight year old resident of Brown County.

2. Petitioner's diagnoses include Mismatch Repair endonuclease PMS2 deficiency (also referred to as constitutional mismatch repair deficiency syndrome, or CMMRD), Type 1 Von Willebrand disease, growth hormone deficiency, and generalized anxiety disorder with panic attacks.
3. Petitioner applied for Katie Becket Medical Assistance in October of 2023.
4. The respondent reviewed Petitioner's application and medical records and denied Petitioner's application. The respondent determined that Petitioner does not have a severe disability or functional limitations that significantly interfere with his daily functioning or well-being.
5. On January 5, 2024, the respondent's medical consultant, Dr. Steven Tyska, reviewed Petitioner's medical records and completed a Katie Beckett Disability Evaluation Form. He concluded that Petitioner has significant congenital diagnoses but is not experiencing functionally limiting symptoms. Dr. Tyska noted that Petitioner is regularly seen by the specialists needed and followed closely. Abdominal pain is referenced in his medical records, but his providers describe Petitioner as stable with no current issues. The agency found that Petitioner was not exhibiting severe or marked symptoms related to any diagnosis, and concluded that nothing was limiting his functioning.
6. On January 28, 2024, Petitioner filed an appeal with the Division of Hearings and Appeals regarding the Katie Beckett denial.

### DISCUSSION

The Katie Beckett Program allows certain children with long-term disabilities who reside at home with their parents to receive Medical Assistance. Wis. Stat. §49.46(1)(d)4; 42 USC 1396a(e)(3); 42 C.F.R. §435.225; *Medicaid Eligibility Handbook (MEH)* §29.1. To qualify for Katie Beckett benefits, a child must be under the age of 19, capable of receiving appropriate care in his or her home, *meet Social Security standards for childhood disability*, require a level of care that is typically provided in a hospital, nursing home, or ICF-MR, and meet certain financial eligibility criteria. See *Id.*

The issue in this case is whether Petitioner meets the required legal standard to be considered disabled. The federal regulations provide the following definition of a disabling impairment for children:

(b) 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, medically equal, or functionally equal the [Listing of Impairments in appendix 1 of subpart P of part 404], or
- (2) *Would result in a finding that you are disabled under § 416.994a.*

[Emphasis added.] 20 C.F.R. §416.911(b).

The process of determining whether an individual meets this definition involves several steps. See 20 C.F.R. §416.924. The first step requires a determination as to whether the claimant is working and performing "substantial gainful activity" (SGA). Petitioner is an 8-year old child and not performing SGA.

The second step entails evaluating whether the claimant has physical and mental impairments that alone or in combination are severe. If the impairment(s) 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's medical records demonstrated that he has been diagnosed with substantially grave conditions. There is, however, no indication in the record that he was experiencing any severe or marked functional limitations caused by these diagnoses.

There is no question that Petitioner's diagnoses are among the most concerning that I have reviewed in my tenure as an Administrative Law Judge. And while the diagnoses indicate with certainty that Petitioner will require substantial assistance in the future, at present the hearing record does not demonstrate that Petitioner has more than minimal functional limitations. Accordingly, I find that Petitioner does not have a severe impairment or a severe combination of impairments for purposes of meeting the legal standard of disability.

Finally, I note that Petitioner requested that the record be held open to allow her to submit submitted medical records pertaining to a brain scan conducted on or about February 29, 2024. The narrative reports some enlargement of lesions on petitioner's brain, but there is no mention of how, if at all, the enlargement has led to any functional limitations.

Nothing in this Decision precludes Petitioner from applying for Katie Beckett eligibility in the future. At hearing, Petitioner's mother testified that, as Petitioner's diseases progresses, he will need additional services that Katie Beckett can provide; while I understand her desire to approach her child's needs in the most proactive way possible, Katie Beckett eligibility requires a disability finding. At present, Petitioner does not qualify.

### CONCLUSIONS OF LAW

Petitioner does not meet the legal standard for disability required to establish eligibility for Medical Assistance benefits through the Katie Beckett program.

**THEREFORE, it is**

**ORDERED**

That the petition for review 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

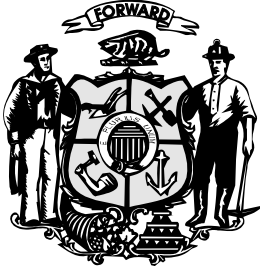
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision 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 29th day of March, 2024



\s \_\_\_\_\_  
Peter McCombs  
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 29, 2024.

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