



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

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

DECISION
Case #: HMO - 220816

PRELIMINARY RECITALS

Pursuant to a petition filed on November 10, 2025, under Wis. Stat. § 49.45(5)(a), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Medicaid Services regarding Medical Assistance (MA), a hearing was held on December 30, 2025, by telephone.

The issue for determination is whether the HMO correctly denied the petitioner's request for neuropsychological testing.

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: Morgan Cox & Dr. Kristi Keefe, Anthem BCBS
Division of Medicaid Services
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a 13 year old resident of Douglas County who receives his Medicaid benefits through the health maintenance organization (HMO) Anthem BCBS.
2. The petitioner demonstrates difficulty with concentration, difficulty with peer interaction and social skills, impulse control issues, anxiety, pacing, aggression, obsessions, repetitive behaviors, difficulty with changes in his environment, being difficult to engage, and extreme difficulty with math.
3. On August 20, 2025, the petitioner had a neuropsychological consultation for evaluation of cognitive difficulties with a pediatric neuropsychologist. It was recommended that the petitioner have a more in-depth cognitive evaluation to better delineate his abilities and test for Autism, ADHD, and learning disabilities.
4. On August 29, 2025, the petitioner's medical provider submitted a prior authorization for neuropsychological testing to the HMO.
5. On September 30, 2025, the HMO denied the prior authorization. The petitioner's parents appealed the denial to the HMO.
6. On October 24, 2025, the HMO denied the prior authorization again.
7. On November 10, 2025, the petitioner's parents appealed the denial to the Division of Hearings and Appeals.
8. On November 26, 2025, the DHS Division of Medicaid Services submitted a written response to the petitioner's appeal with the Division of Hearings and Appeals authored by medical consultant, Dr. Steven Tyska.

DISCUSSION

Under the discretion allowed by Wis. Stat. §49.45(9), the Department of Health Services (“the department”) requires certain Medical Assistance (MA) recipients to participate in HMOs. See also, Wis. Admin. Code §DHS 104.05(1). HMOs are responsible for providing recipients all services, with limited exceptions, that are Medicaid covered services. Those exceptions are identified in the contract that participating HMOs enter into with the Department. See *BadgerCare Plus / Medicaid SSI Contract* (hereafter, “BCP HMO Contract”) Article IV. Sec. D. and Wis. Admin. Code §DHS 107.28(1)(a)1.

The BCP HMO contract describes the HMO's obligation to provide covered services as follows:

The HMO must provide services in an amount, duration and scope that is no less than the amount, duration, and scope for the same services furnished to the member under fee for service Medicaid as defined in published policy within the Wisconsin Health Care Program Online *ForwardHealth Handbook*, as set forth in 42 CFR § 438.210(a)(2), 42 CFR § 440.230, and 42 CFR part 441, subpart B.

See also, 42 C.F.R. §438.210(a)2. HMOs are permitted to make decisions to provide or deny medical services on the basis of medical necessity and appropriateness as defined in the State Plan and Wis. Admin. Code §DHS 101.03(96m). See BCP Contract, Article IV. Sec. B. 42 C.F.R. §438.210(a)(4).

If an HMO recipient disagrees with an HMO's decision to deny authorization for a requested service, the recipient may file an appeal with the HMO and, if dissatisfied with the outcome of that appeal, may then request a fair hearing with the Division of Hearings and Appeals. See Wis. Stat., §49.45(5); Wis. Admin. Code §DHS 104.01(5)(a)1.

Here, the petitioner's parents requested 15 hours of neuropsychological testing to determine their son's cognitive abilities and deficits, to obtain clarity on whether he had diagnoses of Autism, ADHD, and learning disabilities, and to acquire a better understanding of how to best support him. The petitioner had recently had a one hour consultation with a neuropsychologist who expressed the following:

More in-depth neuropsychological evaluation is recommended to better delineate his cognitive abilities. Additional information is needed regarding the nature of his anxiety, attention, language, learning, emotional connection, and Autism Spectrum Disorder, and the influence these may be having on his cognitive functioning. Neuropsychological test results are needed to inform medical decision making. A well-delineated neuropsychological and emotional/behavioral profile is necessary for the development of an intervention plan that appropriately matches [petitioner's] unique pattern of strengths and weaknesses.

(HMO Exhibit B). A prior authorization request for the 15 hours of neuropsychological testing was sent to the HMO on August 29, 2025 for approval.

That same day, the HMO issued a notice of adverse action denying the prior authorization for a neuropsychological evaluation based on the following rationale:

Your provider asked for 15 hours of testing (neuropsychological testing) to measure thinking skills. Testing is for those who need:

- testing to measure a thinking disorder.
- testing because of a specific brain problem; and
- testing is the best way to get the information.

The records we have show that you would like testing for these reasons. You do not have a brain disorder. Other exams can answer the question. Other screening tests can answer the question. Information can be gained other ways. Testing will not affect a current treatment plan. For these reasons, 0 hours are approved. 15 hours are denied as not medically necessary. There may be other options that can help you such as a clinical exam (a psychiatric diagnostic evaluation), mental health treatment, and a review of screening test data. Please discuss these options with your provider. . .

(HMO Exhibit C) The petitioner's parents appealed the denial to the HMO on or about September 30, 2025. On October 24, 2025, the HMO upheld its initial determination denying the prior authorization request based on the same rationale. (HMO Exhibit F) The petitioner's parents then appealed to the Division of Hearings and Appeals.

At the hearing, Dr. Keefe, a clinical neuropsychologist, testified on behalf of the HMO regarding the MCG Health Neuropsychological Testing criteria. Dr. Keefe testified that the petitioner did not meet any of the specified clinical indications for testing on the MCG Health criteria. (HMO Exhibit G) However, she stated that the petitioner *did* meet the criteria in footnote A which stated, “Neuropsychological testing may be necessary to confirm or diagnose cognitive and functional deficits in a child or adolescent who fails to develop expected skills to adapt to change.” (HMO Exhibit G)

The next analysis in the MCG Health listing was whether the petitioner had shown signs of developmental delays or a brain disorder in his early developmental history, namely the 0-5 year timeframe. Dr. Keefe stated that according to the records that she read, he did not have a history of early developmental delays during the age of 0-5 years, which was necessary to meet this criterion. Therefore, she determined that it was unlikely that the petitioner had Autism or a brain disorder.

The formal notice of denial from the HMO stated, “you do not have a brain disorder” and that “[i]nformation can be gained other ways. Testing will not affect a current treatment plan.” (HMO Exhibit C)

At the hearing, the petitioner’s parents testified that the petitioner was born 5 ½ weeks premature and was in the NICU for 3 weeks. He was a very fussy baby and he was colicky for the first 12 months of life. They also testified that the petitioner was very difficult to toilet train, and showed symptoms of developmental disability and learning disabilities from a young age. Additionally, they noticed that he has demonstrated hyperactive behaviors, anxiety, pacing, difficulty with changes in his environment and/or routines, impulse control issues, difficulty concentrating, difficulty making friends, social isolation, and being verbally aggressive with people. Even now at age 13, the petitioner’s mother testified that he has to be told to change his clothes, brush his teeth, and dress appropriately for the weather. They stated that their son has struggled all of his life with these types of issues, and this was not a new onset of symptoms that just recently came about.

The petitioner’s parents each also testified regarding the need for the neuropsychological testing requested in the prior authorization. The petitioner’s father is a licensed clinical social worker. He explained that they had already gone to multiple different providers in an attempt to get the proper diagnoses and treatment for their son and have been unsuccessful. The petitioner’s mother testified that she was told by an HMO representative prior to the hearing that the petitioner was denied speech therapy services due to lack of progress and lack of a diagnosis code. (The HMO representative testified that this denial was due to a “lack of information.”) It was this denial of access to services that prompted the petitioner’s primary care provider to make the diagnosis of Autism shortly before the hearing date. Nevertheless, the primary care provider told the petitioner’s parents that they should still pursue the neuropsychological testing for a more in-depth and thorough confirmation of this diagnosis, as well as formal testing for ADHD and learning disorders.

Both of the petitioner’s parents also testified that understanding their son’s diagnoses and disabilities would help gain access to relevant therapies and programs that would help him and would also inform the two of them how to best support the petitioner with the challenges that he experiences at home and with school.

Although I am aware that Autism is usually diagnosed in younger children, and symptoms of the disability must be present in a child’s early developmental years, the DSM-5 criteria clarifies this issue.

Symptoms must be present in the early developmental period (but may not become fully manifest until social demands exceed limited capacities or may be masked by learned strategies in later life).

Autism Speaks website, citing the American Psychiatric Association (APA) *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, Available here: <https://www.autismspeaks.org/autism-diagnostic-criteria-dsm-5>. Moreover, the testimony of both of the petitioner's parents at the hearing directly controverted any records that stated that the petitioner had not demonstrated signs of Autism at an earlier age.

I agree with the petitioner's parents that this neuropsychological testing has the potential to make a significant impact on the petitioner's life, future support systems, access to services and programming, and available treatment options. To say otherwise is short-sighted.

First, diagnoses about learning disabilities, language deficits, and communication issues would be extremely helpful to the petitioner's parents who testified that they are seeking ways to best support the petitioner, enhance his education, and learn more about the behaviors that they observe every day. This information would also provide critical insights for an occupational therapist or speech therapist working with the petitioner. Although I understand that the petitioner is currently attending an online charter school from his home, the information provided by this evaluation would be critical in developing an IEP or 504 plan to best fit his needs, if he were to enroll in public school.

Next, proper diagnoses of the petitioner's disabilities would allow the family to access relevant support and services, such as the Wisconsin Early Autism Project, LEARN Behavioral, and Caravel Autism Health. Support and therapy through these types of organizations could improve the petitioner's language and communication skills, social skills, concentration, and performance in school. These programs may also be able to help identify problem triggers and provide suggestions for working through them.

Third, the diagnosis of Autism, ADHD, and/or learning disabilities would be critical for qualification for Katie Beckett Medicaid or the Children's Long Term Support (CLTS) Medicaid waiver program. The Katie Beckett program provides an alternative way for children with disabilities to qualify for Medicaid card services, which the petitioner already has. However, the CLTS program can provide resources to the petitioner and his family beyond which standard Medicaid can provide. The CLTS program can provide daily living skills training, respite care, assistive technology, safety planning, certain medical services or supplies, and other items related to community integration and wellness. In order to qualify for the CLTS program a child must be under age 22 and fall into one of three target groups: developmental disability, physical health, or mental health disability. Given the testimony of the petitioner's parents at the hearing, he seems most likely to potentially qualify under the developmental disability target group.

The Developmental Disability (DD) target group requires:

A child or youth with an ICF/IID LOC has a permanent cognitive disability or a related condition, resulting in substantial functional limitations and a need for active treatment. The LOC criteria are based on the child or youth having needs similar to people who reside in an ICF/IID. The intensity and frequency of required interventions to meet the child's or youth's functional limitations must be to an extent that without the intervention the child or youth is at risk for institutionalization within an ICF/IID.

Medicaid Home and Community-Based Services (HCBS) Waiver Manual for the CLTS Waiver Program ("CLTS Manual"), §2.3.1, last updated December 2025, available here <https://www.dhs.wisconsin.gov/publications/p02256.pdf>.

A child may be assigned this level of care if the child meets **all three** of the criteria listed below for Developmental Disability:

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

Institutional Levels of Care: Children’s Long Term Support Programs in Wisconsin Guidelines (hereafter “LOC Manual”) at <https://www.dhs.wisconsin.gov/publications/p03027.pdf>, page 4, updated May 2022.

Criterion 1

A diagnosis of Autism or Developmental Delay are two of the listed diagnoses that meet the eligibility in Criterion 1. *LOC Manual*, page 5.

Criterion 2

Criterion 2 requires a Substantial Functional Limitation. To that end, a child needs limitation in at least **three** of the following six areas:

Learning: Substantial learning impairments can be measured by one of the following:

- A 30% (25% if the child is under 1 year of age) or greater delay in aggregate intellectual functioning based on valid, standardized and norm-referenced measures or other valid demonstrations of learning limitations compared to their age group.
- A score of at least 2 (1.5 if the child is under one year of age) standard deviations below the mean on valid, standardized and norm/criterion-referenced measures of aggregate intellectual functioning.

Communication: A substantial functional limitation in communication is defined as:

- A 30% (25% if under 1 year of age) or greater delay, or
- A score of at least 2 (1.5 if under child is under 1 year of age) standard deviations below the mean on norm/criterion-referenced measures of BOTH expressive and receptive communication functioning.

Social Competency/Self-Direction: Social Competency and Self Direction consists of:

- Self-awareness (aware of how one’s actions affect others).
- Social awareness (understanding of and appropriate reaction to others).
- Self-management (ability to regulate oneself emotionally with others/environment).
- Relationship management (being able to initiate and reciprocate in relationships).
- Responsible decision making (having the skills to make good choices).

Mobility/Transfers:

- Mobility: Mobility is the ability to move between locations in the living environment. This includes the home, school, and community. Mobility includes walking, crawling, or using equipment to get around.
- Transfers: The physical ability to move between surfaces (for example, from bed to wheelchair, walker or standing position). This excludes transfers into the bathtub/shower and on/off the toilet; those are captured in bathing and toileting.

Capacity for Independent Living:

- Meal preparation: The ability to make simple meals for oneself. Examples include soup, frozen dinner, macaroni and cheese, sandwich, or a bowl of cereal.
- Money Management: The ability to manage one's own basic financial matters. Examples include making purchases at a store, writing a check, using a credit card, and paying bills.

Activities of Daily Living: One of the following requirements must be met:

- For children under 5 years of age, such a degree of deficit must be evidenced in at least one of the following activities of daily living:
 - o Bathing or Grooming
 - o Dressing or Toileting
 - o Eating
- For children 5 years of age or older, such a degree of deficit must be evidenced in at least **two** of the following activities of daily living categories:
 - o Bathing or Grooming
 - o Dressing or Toileting
 - o Eating

LOC Manual pg. 5-8.

Criterion 3

Finally, in order to qualify for the CLTS program, an individual must have a **need for active treatment** as defined in Criterion 3.

The child must be in need of active treatment with services that an ICF/IID facility would provide according to federal law. To meet this criterion, a child must require a continuous active treatment program including consistent training, therapies, and related services designed to address the child's substantial functional limitations and help them:

- Acquire skills and behaviors necessary to function with as much self-determination as possible; and
- Prevent deceleration, regression, or loss of optimal functional status.

For treatment to be categorized as active, it must be needed on a continuous basis throughout the child's daily routines in home, school, and community. Active treatment does not include services to maintain generally independent clients who are able to function with little supervision.

In summary, the child must need or be receiving planned and coordinated assistance that is individualized, intensive, interdisciplinary, implemented across different environments, of extended duration, and relevant to the developmental stages associated with the child's age.

If Criteria 1, 2, and 3 above are all met, the child meets the ICF/IID (Developmental Disabilities) level of care.

LOC Manual, pg 8-9. As is laid out above, the criteria for eligibility for the CLTS program is very specific and requires identification of deficits with quantifiable data. Moreover, the functional screen requires formal medical diagnoses, not mere suspicions or a description of symptoms. *Clinical Instructions: Wisconsin's Functional Eligibility Screen for Children's Long Term Support Program*, Module 3: Diagnosis, Page 28, available here: <https://www.dhs.wisconsin.gov/functionalscreen/cltsfs/instructions.htm>.

I need not address any of the HMO's other rationale for denial as the *Forward Health Provider Online Handbook*, Topic # 6057 addresses the coverage of neuropsychological testing under the Medicaid program.

Covered Central Nervous System Assessments/Tests

Covered central nervous system assessments/tests include the following:

- Psychological testing
- Assessment of aphasia
- Developmental testing, limited and extended
- Neurobehavioral status exams
- **Neuropsychological testing**

Specific services include assessments and tests with interpretations and reports. BadgerCare Plus and Wisconsin Medicaid cover all of the Central Nervous System Assessments/Tests described in CPT. A list of allowable procedure codes and modifiers is available.

(Emphasis added.) *FH Handbook*, Topic # 6057. This policy was also included as HMO Exhibit H. The list of allowable procedure codes and modifiers referenced in this section includes the billing codes 96132, 96133, 96138, and 96139. These are the four procedure codes that the petitioner's provider referenced in her prior authorization request. (HMO Exhibit A) Moreover, neuropsychological testing does *not* require a prior authorization under the Medicaid program.

Central Nervous System Assessments and Tests

PA is **not** required for central nervous system assessments and tests. Central nervous system testing may be part of the mental health evaluation, but it does not require PA and must be billed under the appropriate codes.

(Emphasis added.) *FH Handbook*, Topic # 6057.

If the petitioner had been enrolled in Badger Care/Medicaid Fee-for-Service rather than an HMO, he could have had the neuropsychological evaluation done without requesting prior authorization and the State would have paid for the testing upon receiving a claim. Because the State is required to pay for (and only for) medically necessary services, it is reasonable to infer that the State has concluded that, in general, when ordered by a recipient's medical provider, it is appropriate to consider the procedure at

issue (i.e., neuropsychological evaluation) to be medically necessary. See Wis. Admin. Code §DHS 107.01(1) and §DHS 101.03(96m); see also, Wis. Stat §49.46(2) and 49.47(6)(a).

Therefore, I find that the requested evaluation satisfies the definition for medical necessity set forth in Wis. Admin. Code §101.03(96m) and that the HMO must therefore authorize coverage for that procedure.

CONCLUSIONS OF LAW

The petitioner has established by a preponderance of the evidence the medical necessity for neuropsychological testing as requested in the prior authorization.

THEREFORE, it is

ORDERED

That this case is Remanded to the HMO with instructions to authorize the petitioner's prior authorization for neuropsychological testing. This action shall be taken within 10 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, 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.

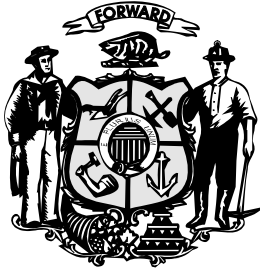
APPEAL TO COURT

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 29th day of January, 2026

\s _____
Kate J. Schilling
Administrative Law Judge
Division of Hearings and Appeals



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The preceding decision was sent to the following parties on January 29, 2026.

Division of Medicaid Services
DHS MC Appeals