



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

Case #: CWA - 208193

PRELIMINARY RECITALS

Pursuant to a petition filed on April 3, 2023, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Enrollment Services regarding Medical Assistance (MA), a hearing was held on September 13, 2023, by telephone.

This matter was rescheduled numerous times. It was originally scheduled for hearing on 5/24/23 but was rescheduled at petitioner's request because she was not ready to proceed to hearing. A 6/21/23 scheduled date was rescheduled at the request of petitioner because the petitioner had obtained assistance from an ombudsman. A 7/19/23 scheduled hearing date was rescheduled by petitioner with the explanation that the ombudsman was not available. And, the 8/9/23 scheduled hearing date was rescheduled by petitioner on the basis they petitioner was not ready and was seeking resolution with the agency. Ultimately, while an ombudsman had provided assistance to petitioner prior to hearing, petitioner was represented at hearing by [redacted], her authorized representative.

The issue for determination is whether the agency erred in its determination of the \$185.17 cost share for the IRIS program effective 4/1/23.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



Respondent:

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

By: K. Oberg
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

## FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Effective 7/1/22 petitioner's IRIS cost-share was determined to be \$107.15. This included a calculation of \$107.07 of monthly medical/remedial expenses.
3. In January 2023 petitioner submitted a medical/remedial expense checklist which only stated an expense for \$58.74 for her phone. No medical/remedial expenses were reported for petitioner relating to the cost-share determination.
4. By notice dated 3/9/23 and effective 4/1/23 the agency adjusted petitioner's cost-share to \$185.17.
5. Petitioner filed an appeal.
6. On 7/14/23 the ombudsman working with petitioner submitted medical/remedial expense documentation with support to the IRIS agency. The IRIS agency processed the documentation.
7. Effective 7/1/23 the agency adjusted the IRIS cost-share to \$100.11 based on the new medical/remedial expense information provided by the ombudsman. This determination included MR expenses of \$133.04.

## DISCUSSION

The IRIS program was developed pursuant to a Medical Assistance waiver obtained by the State of Wisconsin, pursuant to section 6087 of the Deficit Reduction Act of 2005 (DRA), and section 1915(j) of the Social Security Act. It is a self-directed personal care program.

IRIS policies are found online at <http://www.dhs.wisconsin.gov/publications/p0/P00708.pdf>. Section 2.2.D.3 of the policy manual provides that participants must make monthly cost share payments, and that failure to pay cost shares may result in disenrollment. The IRIS Policy Manual: Work Instructions is a separate on-line instruction manual for workers and is found at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>. Section 2.1.B.1 provides policies about cost shares. A cost share is the amount of the IRIS participant's income that must be paid to maintain eligibility.

First, this appeal was filed with the Division of Hearings and Appeals on 4/3/23. The hearing request disputed the change in cost-share from \$107.15 to \$185. This was the change effective 4/1/23 and noticed by the 3/9/23 notice. Appeal from this action was timely. At hearing, petitioner's representative stated that She disputed the cost-share going back as far as June 2022. An appeal of a negative action concerning MA must be filed within 45 days of the action. Wis. Stat. §49.45(5)(a); Wis. Admin. Code, §HA 3.05(3)(a). While the appeal of the 3/9/23 notice was timely, it is long past time to appeal from a June 2022 cost-share determination. I limit this Decision to the correctness of the 4/1/23 cost-share determination which was in effect until 7/1/23.

The petitioner explained that the petitioner requested a fair hearing on the basis that the current cost-share. Petitioner did not identify any error by the agency in the calculation of the cost share, Petitioner did not allege any rule, administrative code, or statute provision that the agency did not comply with in arriving at the current cost-share.

It is clear from the record, including the budget calculations reflected on the agency calculation screens, that the absence of medical/remedial expenses are the reason for the higher cost-share from 4/1/23 to 7/1/23.

The argument presented by petitioner is that a previous IRIS consultant working petitioner's case at the end of 2022 and beginning of 2023 did not properly submit medical remedial expense documentation or requests for similar deductions. The consultant did not testify. Petitioner's representative offered no evidence beyond speculation that this was the fault of the IRIS consultant.

The agency representatives testified that the medical/remedial worksheet submitted in January only included petitioner's phone and did not include any other expenses. Thus, the agency zeroed out the MR expenses and this caused the jump to the higher cost-share. The agency stated that it did not receive the correct MR expenses until 7/14/23 from the ombudsman.

It is clear from the record that if petitioner's correct medical/remedial expenses were considered in early 2023 then petitioner's cost-share would have been set at 100.11. But someone erred – it is simply not clear to me who that was. It is not clear to me whether this was a miscommunication, or whether petitioner did not provide the full picture to IRIS, or whether it was the fault of petitioner's IRIS representative. I am also unsure that this would have been the obligation of petitioner's IRIS consultant in the first place.

Because the fault in this case is unclear I must find that the agency did not meet its burden. My goal is simply to establish the correct cost-share had the correct numbers been submitted and processed. The \$100.11 cost-share should have been effective rather than the \$185.17 cost-share as of 4/1/23. I will not make this effective as of January because I am equally uncertain that there actually was any fault by the agency or an IRIS consultant.

### CONCLUSIONS OF LAW

That the agency did not establish that it correctly determined petitioner's IRIS cost-share for the period from 4/1/23 to 7/1/23.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the IRIS agency and the county with direction to revise the cost-share from 4/1/23 to 7/1/23 to be \$100.11. Any balance due to petitioner may be credited on petitioner's account to offset future payments or refunded to petitioner at the discretion of respondent. These actions must be completed within 10 days 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, 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 October, 2023

A handwritten signature in blue ink, appearing to read 'John P. Tedesco', is written over a light blue horizontal line.

John P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
5<sup>th</sup> Floor North  
4822 Madison Yards Way  
Madison, WI 53705 5400

Telephone: (608) 266 7709  
FAX: (608) 264 9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 2, 2023.

Milwaukee Enrollment Services  
Bureau of Long-Term Support