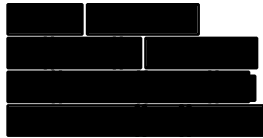




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: CWA - 189840

PRELIMINARY RECITALS

Pursuant to a petition filed on September 13, 2018, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support regarding Medical Assistance (MA), a hearing was held on December 18, 2018, by telephone.

The issue for determination is whether the agency erred in its denial of reimbursement for hotel expenses for petitioner’s mother to attend a conference.

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

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Dane County.

2. Petitioner is enrolled in the IRIS program. He has various and complicated diagnoses including Fragile X syndrome, and kyphosis of the cervicothoracic region. He is developmentally delayed and requires assistance with 4 ADL's and 5 IADL's.
3. In February 2018 petitioner's mother informed the agency that she wished to attend a conference relating to Fragile X syndrome and wanted to know if IRIS could reimburse costs.
4. Petitioner's mother attended the conference in June. Petitioner did not attend with his mother.
5. Petitioner's mother sought reimbursement for conference attendance-related expenses.
6. In July 2018 the agency learned that [REDACTED] did not attend.
7. In September, the agency reimbursed petitioner for his mother's airline tickets (\$285.81) and the conference registration fees (\$525).
8. It denied reimbursement for the hotel expenses on the basis that petitioner was not present in the hotel room with his mother.
9. Petitioner appealed.

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.

The federal government has promulgated 42 C.F.R. §441.450 - .484 to provide general guidance for this program. Those regulations require that the Department's agent must assess the participant's needs and preferences (including health status) as a condition of IRIS participation. *Id.*, §441.466. The Department's agent must also develop a service plan based on the assessed needs. Further, "all of the State's applicable policies and procedures associated with service plan development must be carried out ..." *Id.* §441.468.

The dispute revolves around reimbursement for hotel expenses when petitioner's mother attended a conference out of town relating to petitioner's diagnosis of Fragile X Syndrome. The petitioner's representative explains that the family was informed that expenses would be reimbursed from IRIS funds. The agency clarifies its position that it made such statements conditioned upon petitioner attending with his mother as such would be considered a "Community Integration Event" which is covered under the category of Supportive Home Care services under the waiver.

Some expenses for a "worker" only, including parking, meals, and admission to the event, are reimbursable "for participant-hired workers attending CIE's *with a participant*, because the participant has long-term care needs that necessitate the worker's presence at the event." (emphasis added). *See IRIS definition Manual* at p.12. In this case, petitioner is the program participant and he did not attend. Frankly, I do not see how the program reimbursed the costs that it did. This set of facts clearly does not fall within the rules.

The agency presented testimony of IRIS consultant [REDACTED] who related his communication with petitioner's parents. He explained that he related to petitioner's mother that her expenses could be reimbursed if someone needed to go to support [REDACTED] at the conference.

Petitioner's father testified that Mr. [REDACTED] informed the family that there would be no reimbursement if [REDACTED] attended the conference. Obviously, this recollection is at odds with that of Mr. [REDACTED]. Neither party submitted any of the e-mail communications referred to during the hearing. If I were convinced that

the IRIS consultant misinformed the family and they relied to their detriment on this misinformation I might have granted the requested reimbursement. But, I am not so convinced. I think it is equally likely that the parent misunderstood what was stated. Instead, I will simply apply the program rules. Under the rules above, this was clearly not a CIE and there is no basis for reimbursement.

CONCLUSIONS OF LAW

The IRIS agency did not err in its denial of the hotel costs from a conference attended by petitioner's mother.

THEREFORE, it is ORDERED

That this 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, 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.

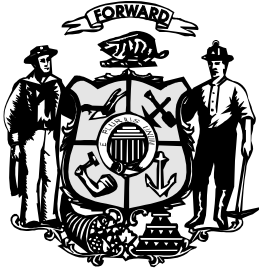
APPEAL TO COURT

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, 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 24th day of January, 2019

\s _____
John P. Tedesco
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 January 24, 2019.

Bureau of Long-Term Support