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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████
██████████
██████████

DECISION

Case #: CWA - 206737

PRELIMINARY RECITALS

Pursuant to a petition filed on October 31, 2022, 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 November 30, 2022, by telephone.

The issue for determination is whether the IRIS agency correctly terminated Petitioner's enrollment in the IRIS 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: Pam Schreiber
Bureau of Long-Term Support
PO Box 7851
Madison, WI 53707-7851

ADMINISTRATIVE LAW JUDGE:

Nicole Bjork
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County and is enrolled in the IRIS program.
2. Petitioner's diagnoses include diabetes mellitus-type 2, mixed hyperlipidemia, morbid obesity, rheumatoid arthritis, gouty arthropathy, myalgia, hand pain, right knee pain, shoulder pain, pain

in right toe, ankle pain-bilateral, myositis, polyneuropathy in diabetes, hammer toe, restless leg syndrome, shortness of breath, dyspnea, depression, and edema. Petitioner requires supervision for three Activities of Daily Living (ADLs) including mobility, toileting, and transferring, as well as hands-on cares for two ADLs including bathing and dressing. Petitioner requires hands-on care for four Instrumental Activities of Daily Living (iADLs) including meal prep, medication administration and management, laundry/chores, and transportation. Petitioner needs overnight supervision (caregiver can get at least 6 hours of uninterrupted sleep) and also has mental health needs. Exhibit 2C.

3. On February 21, 2021, Petitioner's son, ■, was approved as her personal care worker (PCW).
4. On March 17, 2021, ■ was incarcerated. Petitioner's grandson, who has the same name as ■, began caring for Petitioner despite not being an approved PCW.
5. The agency received notification that ■ was receiving IRIS funds as a PCW despite being incarcerated. ■ became incarcerated on March 17, 2021. Petitioner informed the agency that her grandson, ■'s son, was providing her care while ■ was incarcerated, even though ■'s son was not an approved caregiver. The agency then sent an overpayment notice to recover the payments that were provided to ■ while he was incarcerated. The overpayment debt has not been repaid.
6. On October 21, 2022, the agency sent Petitioner a notice informing her that her enrollment was being terminated due to mismanagement of employer authority by allowing and signing off on timesheets for a person who was incarcerated at the time he cares were provided, not working to pay back unapproved payments, and by not hiring the person who was caring for her.

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.

Chapter 7 of the *IRIS Policy Manual: Work Instructions (IRIS Manual)* governs disenrollments from the program. Specifically, § 7.1A.1 sets forth the involuntary disenrollment guidelines:

The Department of Health Services (DHS), Office of IRIS Management (OIM), reserves the right to disenroll IRIS participants based on noncompliance with IRIS policy in the following areas:

- a. Failure to utilize IRIS funding (No Spend)
- b. No contact
- c. Residing in an ineligible living setting
- d. Health and safety risks that participants are unable or unwilling to resolve
- e. Substantiated fraud
- f. Mismanagement of budget authority
- g. Mismanagement of employer authority
- h. Refusal to comply with IRIS Program requirements
- i. Failure to pay cost share
- j. Loss of financial eligibility
- k. Loss of functional eligibility

Disenrollment from IRIS does not necessarily mean that the person is ineligible for all Department services; the person might have to apply for Family Care or another program that does not include self-

directed services but instead has more involvement from agency case managers to make certain that services are provided and paid for.

IRIS policy allows the consultant agency to end a participant's enrollment from the program when he/she is noncompliant with IRIS policies, including mismanagement of employer authority. In the present matter, the IRIS consultant agency, TMG, presented testimony and evidence establishing that Petitioner repeatedly signed timesheets for ■, who was her approved caregiver, indicating that ■ was providing care for her. However, ■ was actually incarcerated and not providing any care to Petitioner. Rather, Petitioner's grandson, who was not an approved caregiver, was providing care for Petitioner.

Petitioner testified that she doesn't "read well" and didn't understand that her grandson couldn't provide care for her while her son was incarcerated. However, Petitioner had been educated on approved caregivers and the requirement to accurately complete timesheets. Even if Petitioner believed her grandson could care for her, that does not explain why she allowed the timesheets to be completed indicating that ■ was providing the care while he was incarcerated.

Finally, although Petitioner is her own legal guardian, there is some question whether she is capable of adequately self-directing her supports in light of her inability to manage employees. Petitioner in this case may have been manipulated into signing off on the false timesheets. Accordingly, Petitioner's needs may be better suited to another family care program other than IRIS, one where a case manager could be assigned to Petitioner to ensure that she isn't being taken advantage of by family members.

Accordingly, the preponderance of the evidence supports the agency's decision to disenroll Petitioner from the IRIS program for mismanagement of employer authority.

CONCLUSIONS OF LAW

The preponderance of the evidence establishes that the agency correctly disenrolled Petitioner from the IRIS program for mismanagement of employer authority.

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, 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.

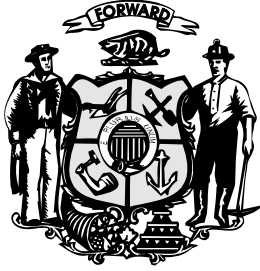
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 18th day of January, 2023

\s _____
Nicole Bjork
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 18, 2023.

Bureau of Long-Term Support