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

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In the Matter of

██████████  
██████████  
████████████████████

**DECISION**  
Case #: CWA - 208908

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on June 8, 2023, 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 October 4, 2023, by telephone.

The issue for determination is whether petitioner's IRIS enrollment should be reinstated as of 6/21/23 without a lapse.

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 is a resident of Juneau County.
2. Petitioner was terminated from IRIS effective 6/21/23 for no longer meeting the required level of care.

3. Notice dated 6/6/23 was sent to petitioner informing her of the termination.
4. Petitioner appealed timely.
5. DHA set a hearing date and issued notice to petitioner by mail.
6. Petitioner did not appear and the case was dismissed by this ALJ.
7. As a result of that dismissal the IRIS program finalized the termination.
8. Petitioner requested rehearing on the basis that she did not receive the hearing notice.
9. Rehearing was granted.
10. Prior to rehearing petitioner was determined to meet the required level of care and was re-enrolled in IRIS.

### DISCUSSION

Petitioner did not appear at the initial hearing based on her not receiving the hearing notice. Had she received the hearing notice I have no question that the re-screen would have taken place and the matter would have been resolved with no lapse in enrollment and eligibility. It is not clear that her failure to appear was the fault of any party or DHA. Regardless, petitioner should not bear a burden due to what may be the fault of DHA or the US Postal Service.

For this reason, IRIS eligibility and enrollment should be reinstated with no lapse back to the 6/21/23 date of termination.

### CONCLUSIONS OF LAW

IRIS eligibility and enrollment should be reinstated with no lapse back to the 6/21/23 date of termination.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the IRIS agency with instruction to reinstate IRIS eligibility and enrollment with no lapse back to the 6/21/23 date of termination. This action should 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).

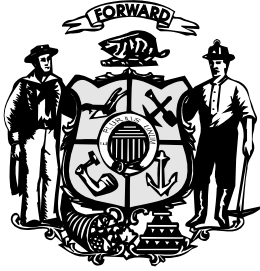
The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 27th day of October, 2023



\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 October 27, 2023.

Bureau of Long-Term Support