



STATE OF WISCONSIN
DEPARTMENT OF HEALTH SERVICES

In the Matter of

DECISION



Case No: CWA-215905

The attached proposed decision of the Administrative Law Judge dated March 7, 2025 is hereby adopted as the final order of the Department.

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, Madison, WI, 53703, **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 request (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 11th day
of April, 2025.



Kirsten L. Johnson, Secretary
Department of Health Services



FH

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

In the Matter of



PROPOSED DECISION

Case #: CWA - 215905

PRELIMINARY RECITALS

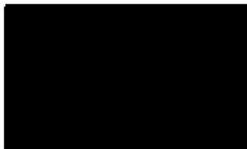
Pursuant to a petition filed on November 14, 2024, under Wis. Admin. Code § HA 3.03, to review a decision by the Bureau of Long-Term Support regarding Medical Assistance (MA), a hearing was held on January 14, 2025, by telephone. The record was held open for 10 days post-hearing to allow the agency time to provide further information on policy used in petitioner's case, and the agency representative provided that response on January 20, 2025 to the parties.

The issue for determination is whether petitioner's IRIS enrollment can be backdated.

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

ADMINISTRATIVE LAW JUDGE:

Kelly Cochran
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Winnebago County. He is enrolled in the IRIS program. His IRIS consultant agency is TMG.
2. On July 15, 2024, the Income Maintenance (IM) agency issued a notice to the petitioner stating that he needed to complete a renewal to keep getting his MA benefits. It further apprised that if he did not act by August 16, 2024, his MA could end on August 31, 2024 or he could have a gap or delay in coverage.
3. On July 18, 2024 the petitioner's mother/guardian met with petitioner's IRIS Consultant (IC) and discussed petitioner's upcoming MA renewal that was due and necessary to keep petitioner's IRIS eligibility.
3. On July 25, 2024 the agency received a signed signature page for petitioner's renewal reporting no changes. The renewal was signed by petitioner's mother/legal guardian.
4. On August 5, 2024 a new agency worker processed petitioner's renewal. It was re-reviewed by a lead worker on August 10, 2024 who determined that because there was no guardian of estate (GOE) documentation, the signature on the renewal was invalid.
5. On August 5, 2024 the petitioner's mother/guardian met with petitioner's IC and discussed that the mother/guardian had completed petitioner's MA renewal.
6. On August 6, 2024 the agency issued a request for verification of petitioner's savings account, which was due by August 26, 2024.
7. On August 13, 2024 the petitioner's mother/guardian called petitioner's IC regarding a disenrollment notice she received and her concerns regarding disenrollment.
8. On August 15, 2024 the agency received verification of the petitioner's savings account.
9. On August 16, 2024 the agency issued a request for verification of petitioner's savings account, which was due by August 26, 2024. The verification request also requested verification of petitioner's utility costs (due by August 26, 2024). It also requested a signature for the renewal stating "please send [GOE] document, we do not have a valid document that allows [REDACTED] to sign or speak on behalf of [REDACTED] Thank you." The request stated that signature was due on August 26, 2024 for Community Waivers, and September 4, 2024 for MA.
10. On August 16, 2024 the agency extended petitioner's MA to September 30, 2024 because his renewal was still being processed as of adverse action.
11. On August 21, 2024 the agency processed the verifications received on August 15, 2024. The agency found that the savings account was closed but questioned where his Social Security income was being deposited.
12. On August 21, August 29, September 11 and September 25, 2024 petitioner's mother/guardian submitted guardianship documents showing petitioner's mother was appointed as guardian of the petitioner on May 18, 2011.
13. On August 22, 2024 the agency issued a request for verification of petitioner's checking account, which was due by August 26, 2024 for Community Waivers, and September 4, 2024 for MA. The verification

request also requested verification of petitioner's utility costs (due by August 26, 2024). It also requested a signature for the renewal stating "please send [GOE] document, we do not have a valid document that allows [REDACTED] to sign or speak on behalf of [REDACTED]. Please send in verification of account Social Security income is being deposited since Checking and Savings accounts were closed out. Thank you." The request stated that signature was due on August 26, 2024 for Community Waivers, and September 4, 2024 for MA.

14. On August 26, 2024 the agency reviewed the verifications submitted by the petitioner.
15. On August 27, 2024 the agency issued a request for verification of petitioner's checking account, which was due by September 4, 2024 for Community Waivers. It also requested a signature for the renewal stating "please send [GOE] paperwork, we cannot use Guardian of Person. Please also send in verification of account Social Security is being deposited." The request stated that signature was due on September 4, 2024 for Community Waivers.
16. On September 2, 2024 a Wisconsin Long-Term Care Program Disenrollment Notice was issued to the petitioner by the Division of Medicaid Services (DMS). The notice stated that his long-term care program enrollment "has ended or is scheduled to end due to No Medicaid Eligibility." The notice directed that the petitioner's IRIS enrollment had ended or is scheduled to end on September 30, 2024.
17. On September 4, 2024 the agency reviewed the verifications submitted by the petitioner. It determined no valid signature was provided for the petitioner's renewal.
18. On September 5, 2024 the agency issued a notice to petitioner advising that his MA was ending September 30, 2024 due to failing to provide a valid signature.
19. On September 5, 2024 the petitioner's mother/guardian spoke with petitioner's IC regarding petitioner's MA renewal and her concerns regarding a lapse in coverage.
20. On September 18, 2024 the agency received verification of where petitioner's Social Security was being deposited.
21. On September 18, 2024 the petitioner's mother/guardian spoke with petitioner's IC regarding petitioner's MA renewal. The IC explained that the IM agency was looking for GOE paperwork and explained what GOE paperwork is for to petitioner's mother/guardian.
22. On September 21, 2024 a Wisconsin Long-Term Care Program Disenrollment Notice was issued to the petitioner by the Division of Medicaid Services (DMS). The notice stated that his long-term care program enrollment "has ended or is scheduled to end due to No Medicaid Eligibility." The notice directed that the petitioner's IRIS enrollment had ended or is scheduled to end on September 30, 2024.
23. On September 23, 2024 the agency reviewed the verifications submitted by the petitioner. It determined no valid signature was provided for the petitioner's renewal. The agency contacted petitioner's mother/guardian and explained an authorized representative (AR) form could be obtained to meet the signature requirement. The agency case worker sent the case to a lead worker for review.
24. On September 25, 2024 the agency received petitioner's AR form.
25. On September 25, 2024 the agency issued a notice to petitioner advising that his MA was ending September 30, 2024 due to failing to provide a valid signature.

26. On September 30, 2024 the petitioner's mother/guardian contacted the agency to discuss the status of the case. She was advised that that petitioner's MA was open effective October 1, 2024. The agency case worker sent the case to a lead worker for review.
27. On September 30, 2024 the petitioner's mother/guardian spoke with petitioner's IC regarding petitioner's renewal and the petitioner's mother/guardian reported that the IM agency had opened petitioner's MA effective October 1, 2024.
28. On October 1, 2024 petitioner's MA was not confirmed as "open" because the case was still under review by a lead worker. This caused a disenrollment from IRIS.
29. On October 1, 2024 petitioner's mother/guardian contacted the agency to discuss the status of the case. She was advised that the agency was questioning whether petitioner had access to the account where his Social Security was being deposited.
30. On October 3, 2024 the agency issued a request for verification to petitioner requesting verification of petitioner's access to the account where his Social Security was being deposited, which was due by October 22, 2024 for Community Waivers and MA.
31. On October 3, 2024 the agency received verification of petitioner's access to the account where his Social Security was being deposited.
32. On October 4, 2024 the petitioner's mother/guardian signed an authorization for enrollment into IRIS.
33. On October 7, 2024 the agency issued a notice to petitioner advising that he was open for Community Waivers effective October 1, 2024.
34. On October 7, 2024 the petitioner was referred to an IRIS Consultant agency (ICA). The ICA began the process of expedited re-enrollment for the petitioner.
35. On October 21, 2024 the petitioner's mother/guardian spoke with petitioner's IC regarding his IRIS enrollment. The petitioner's mother/guardian was informed that the petitioner's previous fiscal employer agent (FEA) was no longer allowed to take any new or re-referred participants so he was being transferred to another FEA, and that was what was causing the delay in enrollment. Multiple conversations regarding the delay occurred thereafter between the petitioner's mother/guardian, petitioner and the IC.
36. On November 6, 2024 petitioner was enrolled in the IRIS program.
37. Petitioner had a gap in IRIS enrollment from October 1, 2024-November 5, 2024.
38. On November 14, 2024, the petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

The IRIS program was developed pursuant to an MA waiver obtained by the State of Wisconsin, pursuant to section 1915(c) of the Social Security Act. It is a self-directed personal care program. The federal government has promulgated 42 C.F.R. § 441.300 - .310 to provide general guidance for this program.

The regulations require that the Department of Health Services' agent must assess the participant's needs and preferences (including health status) as a condition of IRIS participation. Id., § 441.301(c)(2). The Department's agent must also develop a service plan based on the assessed needs. The broad purpose of IRIS is to help participants design and implement home and community-based services as an alternative to institutional care. See *IRIS Policy Manual* § 1.1B, available online at <https://www.dhs.wisconsin.gov/publications/p0/p00708.pdf>. The IRIS waiver application (*IRIS Waiver*) most recently approved by the Centers for Medicare and Medicaid Services (CMS) is available on-line at <https://www.dhs.wisconsin.gov/iris/hcbw.pdf>. State policies governing administration of the IRIS program are included in the *IRIS Policy Manual*, *IRIS Work Instructions* (available at <http://www.dhs.wisconsin.gov/publications/P0/P00708a.pdf>), and *IRIS Service Definition Manual* (available at <https://www.dhs.wisconsin.gov/publications/p00708b.pdf>). The *Medicaid Eligibility Handbook* (*MEH*) explains how Adult Home and Community-Based Waivers work amongst the various waiver subprograms. See *MEH*, § 28.1, available online at <http://www.emhandbooks.wisconsin.gov/meh-ebd/meh.htm#t=home.htm>.

To participate in the IRIS program, individuals must be 18 years of age or older, meet the nursing home level of care, and meet the financial and non-financial eligibility criteria for one of the following: a full-benefit category of Elderly Blind or Disabled (EBD) MA, BadgerCare Plus, Wisconsin Well Woman Medicaid, Adoption Assistance or Foster Care Medicaid. See *MEH* § 28.1.5. As part of determining ongoing eligibility, all IRIS participants must complete an annual functional and financial eligibility review. Failure to maintain that eligibility may result in disenrollment. See *IRIS Policy Manual*, § 2.0 (<https://www.dhs.wisconsin.gov/publications/p03515.pdf>). The agency has the right to disenroll members from IRIS for losing their financial eligibility. See *IRIS Waiver*, pp. 50 and 202; *IRIS Work Instructions*, Ch. 7 (<https://www.dhs.wisconsin.gov/publications/p03515.pdf>).

In this case, the petitioner's MA, and therefore his IRIS eligibility, ended at the end of September 2024. The IM agency can backdate MA eligibility under separate MA policy, and that was done. See DHA Case No. MGE-215904; see also *MEH* §§ 2.8.2, 3.1.6, and 3.1.6.2. The IRIS program's policy is different, however. The IRIS program prohibits the payment of providers and/or participant-hired workers prior to the enrollment date. See *IRIS Policy Manual*, § 2.0 (<https://www.dhs.wisconsin.gov/publications/p03515.pdf>).

The agency presented evidence to show that petitioner was notified by way of written notice of the need to complete the renewal or his MA and IRIS eligibility would end. Petitioner did not allege that he was unaware of the renewal requirement but rather that agency error occurred causing an unreasonable delay in his enrollment.

There are several errors raised with the IM agency's actions in this case. First, which was conceded by the IM agency's post-hearing email, the agency erroneously required petitioner's mother/guardian to file GOE paperwork. She filed the renewal on July 25, 2024 with her signature. The agency conceded post-hearing that the agency "should have accepted [petitioner's mother/guardian] signature for the application." See also *MEH* § 2.5.1.1. It was clear that the agency spent a significant amount of time trying to get the GOE paperwork instead of accepting her signature in July. Eleven days after her signature was submitted, the agency processed the renewal in August. Because the case worker was new to her job, petitioner's case was reviewed by a lead worker. That lead worker prompted the requirement for the GOE. This review by a lead worker is understandable when training any new worker. Unfortunately, the additional layer of review caused the error with requiring a "valid signature" and the agency's case notes confirm the continued need for this review added days to the processing of the case. Also, on September 23 it appears from the case note that the agency was questioning the verifications submitted regarding the bank account, but no request for verification was issued to the petitioner explaining what was now needed. Then, on September

30 a worker told petitioner's mother/guardian he would be eligible effective October 1, but that never occurred because a lead worker was still reviewing the case and his MA eligibility was not actually confirmed. There has been no showing that the petitioner caused an unreasonable delay in processing the renewal or failed to try to complete the renewal timely.

There are also a couple of errors from the agency after the IM process was eventually completed. ICAs must assist in maintaining a participant's MA eligibility under the *Waiver*. See *IRIS Wavier*, pp. 2, 19 and 86. It is the ICA's responsibility to explain participant rights and appeal processes. There is no evidence to show that the ICA offered assistance or explanation about how petitioner could keep his IRIS benefits pending the MA renewal process or appeal the discontinuance of MA prior to October 1. Finally, the delay from the referral until re-enrollment was explained as being due to the FEA. See Finding of Fact #35. It is clear the ICA began the process of expedited re-enrollment and was trying to push the matter along by following up with the two FEAs *and* asking the Department of Health Services directly for guidance on how to address the delay. That process took a month before he was re-enrolled. There is again no showing that the petitioner caused the delay in enrollment.

Due to the variety of errors and delays caused by the agency and/or its agents, petitioner's IRIS enrollment date should be revised from November 6, 2024 to October 1, 2024. Because the Department of Health Services has found that DHA does not have the authority to make a final decision to adjust the enrollment date in the IRIS program under the expedited re-enrollment process (See Final Decision in Case No. CWA-209367 (Wis. Div. Hearings & Appeals, Jan. 4, 2024)), this decision is being issued as Proposed.

CONCLUSIONS OF LAW

Petitioner's enrollment date for IRIS should be backdated to October 1, 2024.

THEREFORE, it is

ORDERED

That, if this proposed decision is adopted as final by the Department Secretary, the agency must, within ten days of the date of the Final Decision, take all necessary administrative steps to revise the petitioner's IRIS enrollment date to October 1, 2024.

NOTICE TO RECIPIENTS OF THIS DECISION:

This is a Proposed Decision of the Division of Hearings and Appeals. IT IS NOT A FINAL DECISION AND SHOULD NOT BE IMPLEMENTED AS SUCH.

If you wish to comment or object to this Proposed Decision, you may do so in writing. It is requested that you briefly state the reasons and authorities for each objection together with any argument you would like to make. Send your comments and objections to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy to the other parties named in the original decision as "PARTIES IN INTEREST."

All comments and objections must be received no later than 15 days after the date of this decision. Following completion of the 15-day comment period, the entire hearing record together with the Proposed Decision and the parties' objections and argument will be referred to the Secretary of the Department of Health Services for final decision-making.

The process relating to Proposed Decision is described in Wis. Stat. 227.46(2).

Given under my hand at the City of Milwaukee,
Wisconsin, this 7th day of March, 2025

A solid black rectangular box used to redact the signature of the Administrative Law Judge.

Kelly Cochrane
Administrative Law Judge
Division of Hearings and Appeals